

# EPC COMMISSION MINUTES & AGENDA

MONTH July

YEAR 1987

Keith Uhl offered a friendly amendment that the original subcommittee who worked on the underground storage tank rules be appointed to help provide input.

Richard Timmerman concurred with the amendment. Motion carried unanimously.

#### DIRECTOR'S REPORT

Director Larry Wilson informed the Commission that the new "no smoking" legislation bans smoking in the fourth and fifth floor restrooms, the lounges, and the conference rooms.

Director Wilson stated that the Midwest Legislative Conference will be held in Des Moines on August 23-26. Groundwater will be a panel discussion on August 24 and Mr. Wilson will be on that panel.

On Saturday, July 25 the Central Region of the National Wildlife Federation, in affiliation with the Iowa Wildlife Federation, will address "Groundwater" at Springbrook Education Center. Mr. Wilson will also speak to this group.

Director Wilson reported that Tim O'Connor of the Washington Field Office has resigned to accept employment with the private sector. Ed Moreno was selected as the replacement for Tim O'Connor. Larry Kolczak and Betty Petersen have also resigned.

The groundwater implementation is progressing very well although there are some rough spots. Some of the problems encountered are with the identification of household hazardous materials. The law states that the cost of the permit for selling household hazardous materials will be based on gross sales. There is a request with the Attorney General's office to identify whether that is total gross sales of the company, or gross sales of household hazardous materials only.

Some confusion has been caused among county recorders regarding the real estate affidavit requirement.

Groundwater standards are due by January 1, 1989.

Director Wilson stated that he would like the Commission's suggestions on legislation for next session (1988) by the middle of September.

Director Wilson reported that he has completed the necessary forms to hire personnel for the Waste Management Authority Division. He presented an organization chart for the division. Recommendations are for eleven people for this division, one being the Division Administrator, and the remaining ten positions are for staff personnel. He explained in detail the responsibilities and budget of each unit in the division.

Director Wilson advised the Commission that Governor's Days will be held in Clear Lake on August 6-7 and that they are invited to attend.

Table 1

|   | Value Assigned  |   |                 |
|---|---|---|-----------------|
|   | <u>5 points</u>   | <u>2 points</u>   | <u>Excluded</u> |
| Mineral and Energy Resources            | No significance present within one mile   | Significant presence with perpetual ban on recovery   | ---             |
| Drinking Water Sources                  | No sources within one mile  | Source permanently closed and alternative water source provided                                 | ---             |
| Critical Wildlife Habitats              | No habitat within one mile  | Permanent buffer and no interference  | Interference    |
| Conservation Areas                      | No area within one mile   | Permanent buffer and no interference  | Interference    |
| Cultural Areas                          | No area within one mile   | Permanent buffer and no interference  | Interference    |
| Population Areas                        | No area within one mile   | Permanent buffer and no interference  | Interference    |
| Prime Farmland                          | Less than 25% prime farmland  | More than 25% prime farmland  | ---             |
| Nonattainment With NAAQS                | No significant impact predicted   | Little significant impact predicted   | ---             |
| Prevention of Significant Deterioration | Good data available and sufficient increments   | Little data available but increment available   | ---             |
| Transportation Routes                   | Within 5 miles of major highway, 10 miles of a rail line, and 50 miles interstate highway | Beyond 5 miles from major highway, 10 miles of a rail line, or 50 miles from interstate highway | ---             |
| Proximity to Major Generators           | Within 50 miles major generators  | Beyond 50 miles from generators   | ---             |
| Utilities and Services                  | Accessible services available   | Sites needing services extended   | ---             |

152.3(3) Methodology. The methodology to be used by the siting authority in applying these criteria is contained in the report "Low-Level Radioactive Waste Disposal Facility Siting Criteria and Methodology" which is adopted by reference. The criteria listed in this rule shall be applied in three steps as follows:

DATE: July 1, 1987  
 TO: Environmental Protection Commission  
 FROM: Mike Murphy  
 SUBJECT: Summary of Administrative Penalties

The following administrative penalties are due:

| NAME/LOCATION                                | AMOUNT  | DUK DATE  |
|--|---------|-----------|
| *Shelter Shield (Buffalo Center)             | \$1,000 | 12-03-86  |
| *Lawrence Payne (Orhanna)                    | 700     | 12-03-86  |
| *Country Corner (Pacific Junction)           | 400     | 12-21-86  |
| *Cedar Hills Apartments (Dubuque)            | 1,000   | 12-29-86- |
| *Chico's Supper Club (Burr Oak)              | 863     | 2-10-87   |
| *City of Dysart                              | 400     | 3-13-87   |
| *OK Lounge (Marion)                          | 448     | 3-29-87   |
| Rhinshart Construction Co. (W. Dallas SLF)   | 800     | 5-15-87   |
| Giese Construction Co. (Eagle Grove)         | 1,000   | 5-25-87   |
| Chicago Central & Pacific RR (Fort Dodge)    | 1,000   | 6-08-87   |
| The Midway (Holy Cross)                      | 336     | 6-08-87   |
| The Moore Oil Co. (West Branch)              | 336     | 6-09-87   |
| Fox Roller Rink (Camauche)                   | 172     | 6-10-87   |
| Sport Wade, Inc. (Weldon)                    | 224     | 6-20-87   |
| The Bank (Turin)                             | 212     | 6-28-87   |
| Telegrove Water Assn. (Davenport)            | 50      | 6-30-87   |
| City of Swan                                 | 530     | 7-01-87   |
| **K & K Truckstop (Lenox)                    | 162     | 7-01-87   |
| Country Living MHP (Altoona)                 | 400     | 7-06-87   |
| Monti-View MHP (Monticello)                  | 200     | 7-06-87   |
| Marion County Care Facility                  | 100     | 7-13-87   |
| Ken Turner (Fort Madison)                    | 200     | 7-13-87   |
| Elings/Catron/Frey (Des Moines)              | 1,000   | 7-18-87   |
| Huegerich Homes of Carroll                   | 1,000   | 7-19-87   |
| Winnebago Industries, Inc.                   | 600     | 7-19-87   |
| E.J. Rath, Inc. (Missouri Valley)            | 50      | 7-20-87   |
| Regional Environmental Imp. Comm. (Marango)  | 1,000   | 7-20-87   |
| Orrie's Supper Club (Hudson)                 | 336     | 7-21-87   |
| Frederika's Tap (Frederika)                  | 50      | 8-01-87   |
| Country Corner Cafe (Pacific Junction)       | 451     | 8-03-87   |
| JTM Indust./MacDade/Leamer (Pleasant Valley) | 1,000   | 8-12-87   |
| Glen Mark Subdivision (Burlington)           | 436     | 8-19-87   |
| McFedries (Davenport)                        | 1,000   | 8-19-87   |
| Wilson/Pingel (Fort Dodge)                   | 500     | 8-19-87   |
| Trausch Co. (Carroll)                        | 1,000   | 8-19-87   |
| Trausch Co. (Carroll)                        | 1,000   | 8-19-87   |
| City of Shenandoah                           | 500     | 8-21-87   |
| Golden Slipper (Dunlap)                      | 250     | 8-21-87   |

\* Referred to the Attorney General  
 \*\* On Payment Schedule

a detectable limit of 0.001 mg/l was determined to be the applicable detection limit.

Since the rules became effective, the department has learned that the detection limit for PCB in an oily-type waste is not 0.001 mg/l but approximately 5 mg/l using standard methods and reasonable reliability. The 0.001 mg/l detection level would be attainable for analysis of a drinking water-type liquid only. Rule 143.6(455B) is modified by changing the maximum contaminant level for PCB to be 5 mg/l.

Any interested person may file with the Director written comments on the proposed amendment through September 10, 1987. Interested persons may also provide oral comments at public hearings to be held in Des Moines, Iowa City, and Council Bluffs as follows: Tuesday, September 8, 1987 at 3:00 p.m. in the east half of the fifth floor conference room of the Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa on Wednesday, September 9, 1987 at 3:00 p.m. in the conference room of the Geological Survey Bureau, 125 N. Capitol Street, Iowa City, Iowa; and on Thursday, September 10, 1987 at 3:00 p.m. in the Community Hall Room, 205 South Main, Council Bluffs, Iowa.

567--143.6(455B) Maximum contaminant levels for used or recycled oils. A used or recycled oil shall not be used for the purpose of road oiling, dust control, or weed control when analysis of the oil under 567--143.3(455B) indicates that: polychlorinated biphenyls are present at a level of 0.001 5 mg/l or greater or, the mobile lead concentration is 5 mg/l or greater or, the measured flashpoint is 140°F (60°C) or lower.

Motion was made by Charlotte Mohr to approve Notice of Intended Action--Chapter 143, Amendment to Waste Oil Rules. Seconded by Nancylee Siebenmann. Motion carried unanimously.

#### REVISION OF RULE CHAPTER 62 -- EFFLUENT STANDARDS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Department requests Commission approval of amendments to Chapter 62 rules. The amendments update the Commission's adoption by reference of federal wastewater discharge standards.

In accordance with Iowa Code section 17A.4(2), public notice and participation is unnecessary. Under rule 62.2(455B), the Commission has determined previously that good cause exists for exempting from the notice and public participation requirements of Iowa Code section 17A.4(1) the adoption by reference of certain federal effluent and pretreatment standards. The Commission found that public participation is unnecessary since the Commission must adopt effluent and pretreatment standards at least as stringent as the enumerated promulgated federal standards in order to have the Department's NPDES program approved by the federal administrator and yet must not adopt a standard that is more stringent than the enumerated promulgated federal standard due to Iowa Code section 455B.173(3).

contamination by organics, and bring the groundwater monitoring program more into conformance with this department's Groundwater Monitoring Strategy. The analytical work will be funded 100 percent by federal wastewater grant monies.

Motion was made by Charlotte Mohr for approval to amend the FY87 University of Iowa Hygienic Laboratory contract to provide \$78,600 worth of sample analysis services. Seconded by Donna Hammitt. Motion carried unanimously.

#### GROUNDWATER UPDATE

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

James Combs stated that funding approvals for the use of oil overcharge funds have been received from the U.S. Department of Energy. These funds will pay for a portion of the groundwater program.

Appointments of DNR representatives have been made to the Leopold Center at ISU, the Center for Health Effects of Environmental Contamination at U of I, and The Small Business Assistance Center at UNI. James Combs will be the representative to the Center for Health Effects of Environmental Contamination as well as representative to the Leopold Center. The administrator of the Waste Management Authority Division will most likely be the appointee to the Small Business Assistance Center.

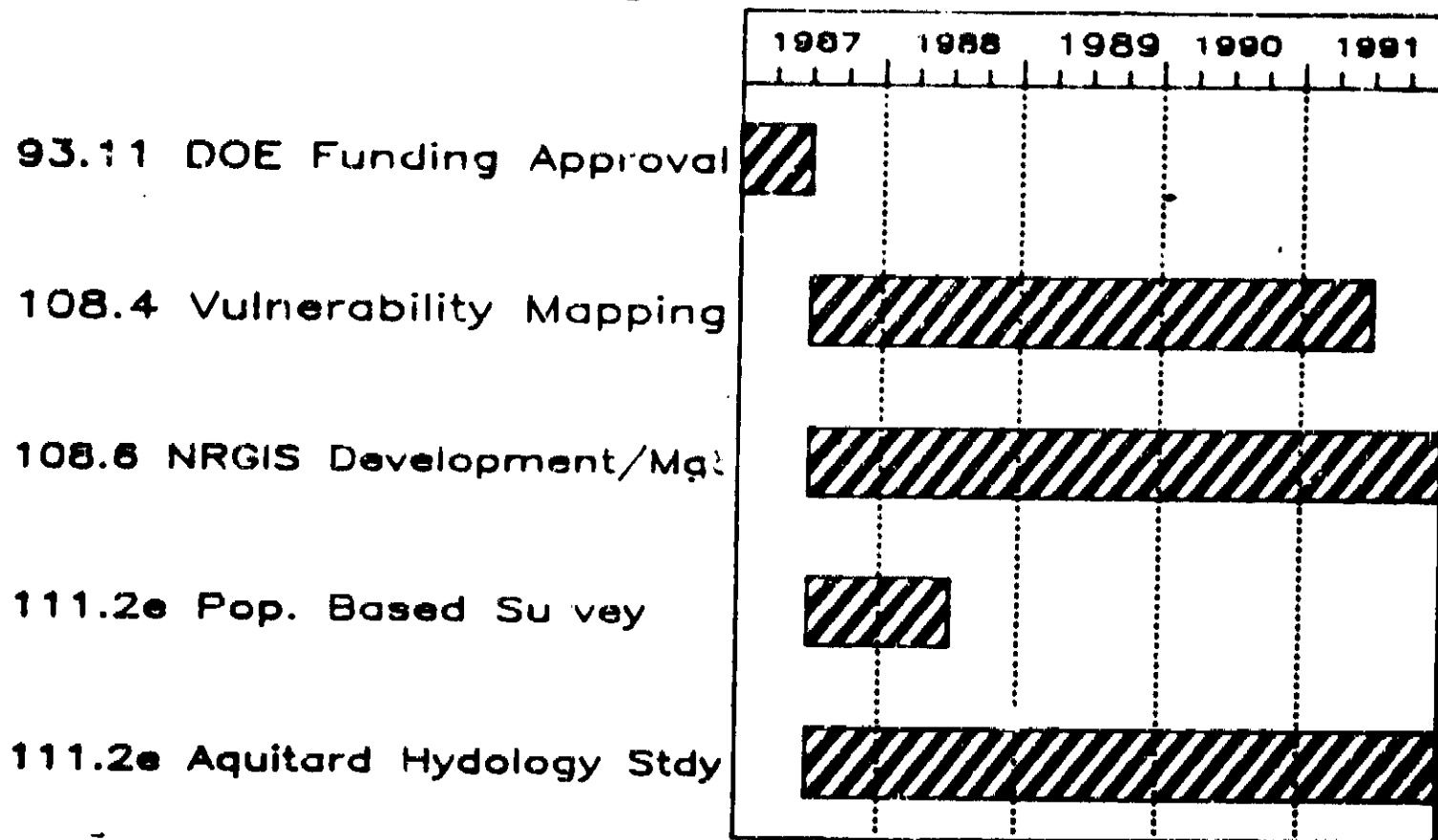
On June 29, a copy of the rules regarding the groundwater hazard statement was mailed to all county recorders. This statement must be filed in addition to the declaration of value form when property is transferred. Mr. Combs reported that there are some problems with the law as the declaration of value form is not required on certain property transactions but the law states that the hazard statement must accompany all property transactions. This is creating problems for county recorders in some cases. Staff is working with the Attorney General's office on ways to alleviate the problem.

The Department of Revenue and Finance sent Household Hazardous Materials Permits to 45,000 sales tax holders who they thought would need the permits. We have requested an Attorney General's opinion regarding gross retail sales and whether or not it applies only to sales of household hazardous waste, or includes all sales. Work is being done on an informational brochure on household hazardous materials.

On July 10, a notice regarding registration certificates was mailed to registered underground storage tank owners. A news release was distributed stating that if a person had not received one of the notices they must contact the Department.

Mr. Combs stated that one portion of the bill which has created some disagreement is the solid waste tonnage fee. The Association of Solid Waste Officials in Iowa has indicated that they believe that the result of HF631 is a repeal of the 25-cent tonnage fee on disposal of solid waste effective July 1, 1987 and continuing through June 30, 1988. The advice of the legal staff with

Other DNR Activities  
Related to 1987 Groundwater Bill  
Energy & Geological Resources Division



Discussion followed regarding who is responsible for the violations.

Motion was made by Keith Uhl to table the referral until an investigation is made and further information is obtained. Seconded by Donna Hammitt.

Mr. Clark stated that he does not know how staff can find out the details the Commission is seeking without having the discovery mechanisms the Attorney General has available to him when he initiates a lawsuit.

Discussion again followed regarding who was responsible and bringing all involved parties before the Commission at the same time.

Mr. Combs stated that the rule states that no one shall cause, or allow, or permit open burning, and the "allow or permit" issue is why Burlington Northern is involved.

The Commission reiterated that they need more facts before making a decision.

Chairman Schlutz called for a vote on Keith Uhl's motion to table the referral. Motion carried unanimously.

Discussion followed regarding compliance and enforcement actions.

#### PROPOSED CONTESTED CASE DECISION -- GALE CONRAD

The Commission took no action which has the effect of upholding the hearing officer's decision unless there is an appeal.

#### PROPOSED CONTESTED CASE DECISION -- LAKEWOOD SANITARY DISTRICT

The Commission took no action which has the effect of upholding the hearing officer's decision unless there is an appeal.

#### PROPOSED CONTESTED CASE DECISION -- IBP, INC.

The Commission took no action which has the effect of upholding the hearing officer's decision unless there is an appeal.

#### ADDRESS ITEMS FOR NEXT MEETING

Proposed Legislation  
U.S. Supreme Court Decisions  
Report On Municipal Wells Testing  
Commission's Role Regarding Litigation

#### NEXT MEETING DATES

August 19-20, 1987  
September 21-22, 1987  
October 19-20, 1987



ENVIRONMENTAL PROTECTION COMMISSION

NAME

COMPANY OR AGENCY

CITY

(Please print)

|                   |                                   |                   |
|-------------------|-----------------------------------|-------------------|
| DONALD JENSEN     | CORN BELT POWER                   | HUMPHREY IA       |
| TIM ROLLINGER     | IOWA PUBLIC SERVICE               | SIoux City        |
| Don Torrey        | Iowa County Engrs. Assoc.         | Marengo, IA       |
| Ed. Kiskumacher   | Petroleum Marketers of IA Section |                   |
| Ronald Neumann    | Hickok & Associates               | Des Moines        |
| ROBERT WATKIN     | AMANA REFRIGERATION               | Ames              |
| JACK SCENERE      | IA ASSOC BUS & IND.               | D.M.              |
| Dave Smitherman   | Food Petroleum Council            | D.M.              |
| Lee Fritch        | UHL - Des Moines                  |                   |
| Idellum F. Miller | Sigma Club                        | D.M.              |
| Frank R. Weaver   | IOWA POWER                        | D.M.              |
| ROGER SCHLETERMAN | CITY OF DES MOINES                | D.M.              |
| Jef Oelbennick    | CR Gazette                        | DM                |
| Karjia Desnoir    | Cedar Rapids Gazette              | DM Bureau         |
| Rich Quinn        | Socio Waste<br>Howard Co.         | Cresco Ia         |
| Keith Chanykones  | Hygienic Lab                      | Sioux City        |
| DANNY VEST        | GROWMARK, INC.                    | Bloomington, Ill. |

MONTHLY VARIANCE REPORT

5/31/87

| No. Facility           | Program          | Engineer              | Subject                  | Decision | Date     |
|------------------------|------------------|-----------------------|--------------------------|----------|----------|
| 1 Coon Rapids, City of | Air Quality      |                       | Landscape Waste          | denied   | 05/04/87 |
| 2 Quality Foundry Co.  | Air Quality      |                       | Equipment Malfunction    | approved | 05/26/87 |
| 3 Naville, City of     | Wastewater Cons. | Build, Grant, Roberts | Number of Aeration Cells | approved | 05/06/87 |
| 4 Fayette County       | Flood Plain      | W. A. Hollering       | Frontboard               | approved | 05/18/87 |
| 5 Jasper County        | Flood Plain      | County Engineer       | Frontboard               | approved | 05/18/87 |
| 6 Carroll, City of     | Wastewater Oper. |                       | Spill "Inc"              | denied   | 05/28/87 |

Enforcement Report Update

The following new enforcement actions were taken last month:

| Name, Location and Field Office Number             | Program        | Alleged Violation                     | Action        | Date   |
|--|----------------|---------------------------------------|---------------|--------|
| Marion Co./Marion Co. Care Facility, Knoxville (5) | Wastewater     | Monitoring & Reporting                | Order/Penalty | 4/30/8 |
| Madison Co./Madison Co. Home, Winterset (5)        | Wastewater     | Monitoring & Reporting                | Order/Penalty | 4/30/8 |
| Bianchi-Meyrat Lagoon                              | Wastewater     | Monitoring & Reporting                | Order/Penalty | 4/30/8 |
| Diamond Rollarena, Iowa Falls (2)                  | Drinking Water | Failure to monitor-bacteria           | Order         | 5/6/87 |
| St. John Lutheran Church, Mincola (4)              | Drinking Water | Failure to monitor-bacteria           | Order/Penalty | 5/6/87 |
| City of Runnels (5)                                | Drinking Water | Failure to monitor-bacteria           | Order/Penalty | 5/6/87 |
| Country Living Mobile Home Park, Altoona (5)       | Wastewater     | Monitoring & Reporting                | Order/Penalty | 5/6/87 |
| Regency Mobile Home Park, Iowa City (6)            | Wastewater     | Plan of Action/Bypassing              | Order/Penalty | 5/11/8 |
| Thomas E. Lennon, Barnum (2)                       | Flood Plain    | Flood Plain Development               | Order/Penalty | 5/11/8 |
| Valley Inn, Cresco (1)                             | Drinking Water | Failure to monitor-bacteria & nitrate | Order/Penalty | 5/11/8 |

Mr. Stokes stated that the groundwater protection bill has eliminated the provision for water supply grants (Item 4 on the Rulemaking Status Report). Consequently, at the July Commission meeting staff will ask the Commission to withdraw the Notice of Intended Action and cease rulemaking regarding these grants.

Regarding the Underground Storage Tank Rules, one member of the Administrative Rules Review Committee was concerned with costs in connection with having to use a company engineer, as described in the rule. He felt it would mean a large difference in costs, depending on the size of a company. Another concern was that it is not in line with the engineering portions of the Code. The Administrative Rules Review Committee has directed their staff to check with the Board of Engineering Examiners to see what the impact would be on this particular rule.

As a follow-up to the May Commission meeting, Allan Stokes presented U.S. Public Health Service comments regarding the health effects of fluoride in water supplies. In summary, there was no sound evidence existing which shows that drinking water in the U.S., with various concentrations of naturally occurring fluoride, would have an adverse effect on public health.

A lengthy discussion followed regarding the various reports.

#### PROPOSED AMENDMENT OF THE RULES CONCERNING USE OF RECYCLED OIL (Chapter 143)

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Department proposes to change the existing rule setting the detection limit for polychlorinated biphenyls (PCBs) in recycled oil from 0.001 mg/l to 5 mg/l. The Department has determined the detection limit for PCBs in an oily-type waste is not 0.001 mg/l but approximately 5 mg/l using standard methods and reasonable reliability.

Mr. Stokes stated that this is an information item and will be brought, as a Notice of Intended Action, for the Commission's approval next month.

#### PUBLIC PARTICIPATION

Chairman Schlutz announced public participation at 3:30 p.m.; no one requested to speak.

#### REFERRALS TO THE ATTORNEY GENERAL

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the Commissioners and are confidential pursuant to Iowa Code Section 22.7(4).

OK Lounge (Marion) - Water Supply  
Redwood Resort (Ruthven) - Water Supply







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Meeting at Wallace State Office Building  
Des Moines, Iowa  
July 20-21, 1987

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#### ANNOUNCEMENT -- A.G. REFERRAL REGARDING CITY OF WILLEY

Chairman Schlutz announced that he received a call from the Attorney General's Office regarding the referral for the city of Willey. The Commission had voted not to refer it, and the Attorney General's Office informed us that they are going to take action on the city of Willey at the end of this week. Their reason for taking action was that the city had been out of compliance for four years and they had an administrative order issued against them.

Keith Uhl stated that he will propose a piece of legislation requesting that the Commission have the final authority on what does, or does not, get referred.

#### LEGISLATIVE COMMITTEE

Chairman Schlutz appointed Keith Uhl, Charlotte Mohr, and Richard Timmerman to the legislative committee, with Keith Uhl to serve as chairman.

#### REPORT ON LOW-LEVEL RADIOACTIVE WASTE COMPACT MEETING

Director Wilson presented a history of the compact from its beginning in 1980 with the passage of the Low-Level Radioactive Policy Act. He stated that in June of this year Michigan was picked as the host state for the Midwest Compact. They have until January 1, 1988 to submit a siting plan for low-level radioactive waste disposal to the U.S. Department of Energy. By January 1, 1993, that disposal facility has to be operational and ready to receive waste from member states in the Compact.

Mr. Wilson explained how the budget was developed and gave an update of projected costs for fiscal years 1988, 1989 and 1990.

Discussion followed regarding the option to drop out of the Compact, problems with the Compact agreement, authority to sign the agreement, and costs and funds.

The next meeting of the Compact will be in Dearborn, Michigan on August 17-18. The topic for this meeting will be further discussion of the host state agreement and response to Michigan's demands.

#### PROPOSED RULES FOR LOW-LEVEL RADIOACTIVE WASTE

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

Mr. Stokes stated that on January 1, 1988, all states, or compacts operating in the name of states, must have developed or have in place methods, procedures and criteria for siting low-level radioactive waste disposal facilities. He distributed a copy of the draft rule along with a copy of the proposed siting criteria and methodology, and explained that the material is the same as that which was used in Chapter 151 of the Administrative Rules for the siting of a state-owned hazardous waste facility. The rules are exactly the same in content and intent with wording changes indicating low-level radioactive waste disposal rather than hazardous waste disposal. Wording changes have not yet been made in the methodology booklet.



- a. Step 1. The exclusionary criteria shall be applied to the entire state. Step 2 shall be applied to those areas remaining.
- b. Step 2. The quantitative criteria shall be applied to the nonexcluded areas identified in step 1. The values in table 1 shall be applied and the potential sites ranked in order of priority.
- c. Step 3. The top rated potential sites shall be subject to detailed evaluation. The best site for the facility shall be selected.

#### MONTHLY REPORTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

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The following administrative penalties have been appealed:

| <u>NAME/LOCATION</u>                 | <u>AMOUNT</u> |
|--------------------------------------|---------------|
| *Finian Landfill (Chickasaw County)  | \$1,000       |
| Besch/Ralston (Fort Dodge)           | 300           |
| Kula and Boge (Martelle)             | 1,000         |
| Handi-Klasp, Inc. (Webster City)     | 1,000         |
| Munn and Traub (Davenport)           | 100           |
| Lakewood Sanitary District           | 1,000         |
| Scotty's Auction Service (Davenport) | 100           |
| Des Moines Metro SLP                 | 1,000         |
| Iowa City Regency MHP                | 1,000         |
| Bianchi Mayrat Lagoon (Des Moines)   | 600           |
| Thomas E. Lennon (Barnum)            | 700           |
| City of Toledo                       | 500           |
| Larsen/O'Donnell (Humboldt)          | 500           |
| Trausch Co., Inc. (Carroll)          | 1,000         |

The following administrative penalties were paid in June:

| <u>NAME/LOCATION</u>                           | <u>AMOUNT</u> |
|--|---------------|
| Shady Oaks Golf Course (Ackworth)              | \$ 212        |
| Indian Creek Country Club (Nevada)             | 62            |
| **K&K Truckstop (Lenox)                        | 25            |
| Delano's Lounge (Ainsworth)                    | 100           |
| City of Waterloo                               | 1,000         |
| City of Kellogg                                | 500           |
| Lake Keokuk Yacht Club (Keokuk)                | 224           |
| Kingsbury Inn (Columbus Junction)              | 150           |
| Broadview Courts (Dubuque)                     | 324           |
| Clarendon Country Club (Clarion)               | 174           |
| J.I. Case, Inc. (Bettendorf)                   | 500           |
| Madison County Home                            | 300           |
| Farmer's Coop (Radcliffe)                      | 500           |
| Denny's Ag Supply (Charles City)               | 500           |
| Eagle Grove Country Club                       | 100           |
| Cherokee County Landfill Commission            | 600           |
| Livestock Placement Service (Jefferson County) | 500           |
| Rosay's DMT Ballroom (Reife)                   | 75            |
| Dows Golf Course                               | 224           |
| NW States Cement (Mason City)                  | 750           |

Penalties were rescinded for Redwood Resort (Ruthven) and Valley Inn (Cresco).

\* Referred to the Attorney General  
 \*\* On Payment Schedule

ENVIRONMENTAL PROTECTION COMMISSION (567)  
Emergency Adopted Rule

Pursuant to Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission amends 567--Chapter 62, "Effluent and Pretreatment Standards: Other Effluent Limitations or Prohibitions," Iowa Administrative Code. The purpose of the emergency filing is to update references in rules 62.4(455B) and 62.5(455B) to federal effluent and pretreatment standards found in 40 Code of Federal Regulations (CFR) which need to be changed due to federal amendments and revisions to 40 CFR.

In accordance with Iowa Code section 17A.4(2), the Commission finds that public notice and participation is unnecessary. Under rule 62.2(455B) the Commission has determined previously that good cause exists for exempting from the notice and public participation requirements of Iowa Code section 17A.4(1) the adoption by reference of certain federal effluent and pretreatment standards. The Commission found that public participation is unnecessary since the Commission must adopt effluent and pretreatment standards at least as stringent as the enumerated promulgated federal standards in order to have the Department's NPDES program approved by the federal administrator and yet must not adopt a standard due to Iowa Code section 455B.173(3).

These rule amendments may have an impact on small businesses.

The Commission adopted these rule amendments on July 20, 1987. The amendments will become effective on September 16, 1987.

ITEM 1. Amend rule 62.4(455B) to read as follows:  
567--62.4(455B) Federal effluent and pretreatment standards. The federal standards, 40 Code of Federal Regulations (CFR), revised as of July 1, 1985 1986, are applicable to the following categories.

ITEM 2. Amend subrule 62.4(3) as follows:

62.4(3) General pretreatment regulations for existing and new sources of pollution. The following is adopted by reference: 40 CFR 403 as amended on September-25, -1985-(50-FR-38311); -April-30, -1986-(51-FR-16630); -June-4, -1986 (51-FR-20426); -and -June-9, -1986-(51-FR-20828) July 1, 1986 (51 FR 23759), October 9, 1986 (51 FR 36368), and January 14, 1987 (52 FR 1600).

ITEM 3. Amend subrule 62.4(5) as follows:

62.4(5) Dairy products processing industry point source category. The following is adopted by reference: 40 CFR part 405 as revised on July 9, 1986 (51 FR 24974).

ITEM 4. Amend subrule 62.4(6) as follows:

62.4(6) Grain mills point source category. The following is adopted by reference: 40 CFR part 406 as revised on July 9, 1986 (51 FR 24974).

ITEM 5. Amend subrule 62.4(7) as follows:

62.4(7) Canned and preserved fruits and vegetables processing point source category. The following is adopted by reference: 40 CFR part 407 as revised on July 9, 1986 (51 FR 24974).

ITEM 6. Amend subrule 62.4(8) as follows:

62.4(8) Canned and preserved seafood processing point source category. The following is adopted by reference: 40 CFR part 408 as revised on July 9, 1986 (51 FR 24974).

ITEM 7. Amend subrule 62.4(9) as follows:

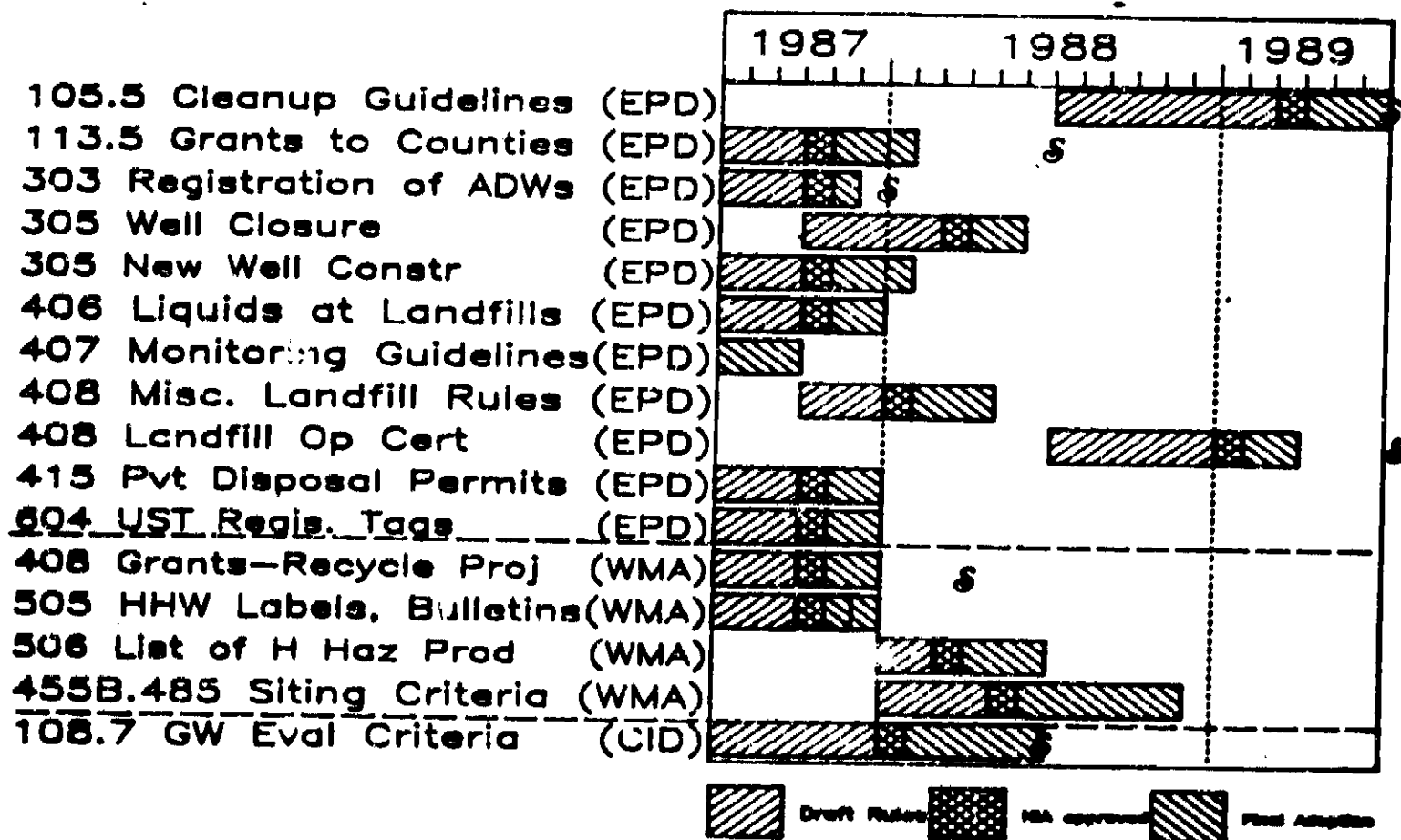
62.4(9) Sugar processing point source category. The following is adopted by reference: 40 CFR part 409 as revised on July 9, 1986 (51 FR 24974).

the concurrence of the Attorney General's Office is that the fee is still in place and payable to the Department in April, 1988. A letter has been sent to all owners of sanitary landfills indicating the Department's position on this.

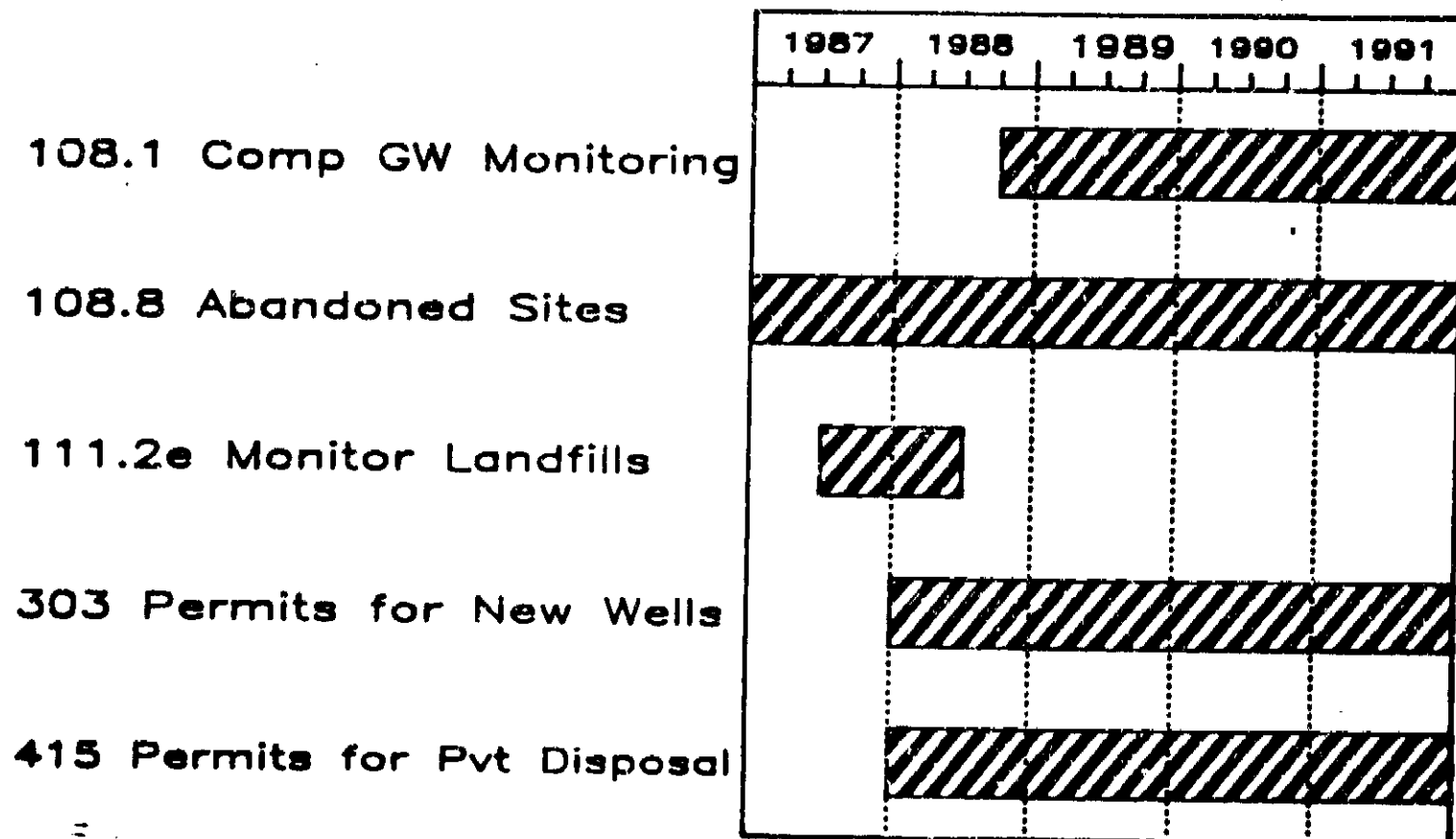
Mr. Combs presented the attached chart showing a schedule of rulemaking for the Groundwater Bill.

Discussion followed regarding various parts of the bill.

## DNR Activities — Rulemaking 1987 Groundwater Bill

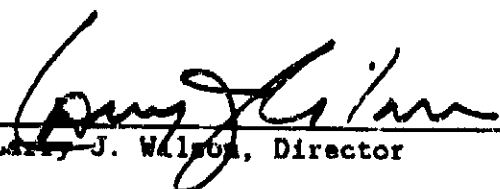


# Other DNR Activities Related to 1987 Groundwater Bill Environmental Protection Division



ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Chairman Schlutz adjourned the meeting at 10:25 a.m. on Tuesday, July 21, 1987.

  
\_\_\_\_\_  
Larry J. Walton, Director

  
\_\_\_\_\_  
Charlotte Mohr, Secretary

(7-87.MIN/sc)

MINUTES  
ENVIRONMENTAL PROTECTION COMMISSION  
Wallace State Office Building  
Fourth Floor Conference Room  
Des Moines, Iowa  
June 15, 1987

The meeting of the Environmental Protection Commission was held at the Wallace State Office Building in Des Moines, Iowa convening at 1:00 p.m. on June 15.

MEMBERS PRESENT

Donna Hammitt, Gary Priebe, Catherine Dunn, Keith Uhl, Nancy Lee Siebenmann, Richard Timmerman, Clark Yeager and Robert Schlutz.

MEMBERS ABSENT

Charlotte Mohr.

ADOPTION OF AGENDA

Director Larry Wilson commented that when James Combs presents the legislative report he will cover a recommendation we have put together, for the Governor's consideration, to form an oversight committee by executive order. Also, the final selection for a department logo will be presented.

Chairman Schlutz stated that with no further comments we will move to approval of the minutes.

ADOPTION OF MINUTES

The following corrections were made to the minutes: Catherine Dunn seconded the nomination for Robert Schlutz as Chairman. Catherine Dunn seconded the nomination for Richard Timmerman as Vice-Chairman. Clark Yeager seconded the nomination for Charlotte Mohr as Secretary.

Motion was made by Nancy Lee Siebenmann to approve the minutes of May 20, 1987 as amended. Seconded by Richard Timmerman. Motion carried unanimously.

EQUIPMENT PURCHASE--ORGANIC VAPOR ANALYZER

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

The department is requesting approval to purchase a scientific instrument called an organic vapor analyzer. This instrument can detect toxic chemical vapors at low concentrations. The instrument will be used by the Abandoned/Uncontrolled Sites Section to investigate hazardous waste sites. The instrument will also be used to analyze soil gases. Soil gas analysis is a technique that is frequently used to determine the extent of pollutant movement of volatile organic compounds. The purchase of this equipment is funded under a cooperative agreement with EPA. The approximate cost is \$8,400.

June 1, 1987

TO: EPC

FROM: Mike Murphy

RE: Enforcement Report Update

The following new enforcement actions were taken last month:

| Name, Location and Field Office Number   | Program        | Alleged Violation                      | Action        | Date    |
|--|----------------|--|---------------|---------|
| City of Chariton (5)   | Solid Waste    | Operation                              | Order/Penalty | 4/6/87  |
| City of Toledo (5)   | Wastewater     | Municipal Improvement Plan             | Order/Penalty | 5/11/87 |
| Albert V. Elings, Calvin W. Elings, Luella J. Frey and Arthur Catron (5)       | Solid Waste    | C & D Site                             | Order/Penalty | 5/15/87 |
| Denny's Ag Supply, Charles City (2)  | Wastewater     | Prohibited Discharge                   | Order/Penalty | 5/15/87 |
| Sid's Gas & Grocery, Forest City (2)   | Air Quality    | Open Burning                           | Order/Penalty | 5/15/87 |
| Radcliffe Farmers Cooperative (2)  | Air Quality    | Open Burning                           | Order/Penalty | 5/15/87 |
| Huegerich Homes of Carroll (4)   | Air Quality    | Open Burning                           | Order/Penalty | 5/15/87 |
| Winneshago Industries, Inc., Forest City (2)                                   | Air Quality    | Failure to obtain permit               | Order/Penalty | 5/15/87 |
| Livestock Placement Service, Jefferson Co. (6)                                 | Wastewater     | Prohibited Discharge                   | Order/Penalty | 5/15/87 |
| Eagle Grove Country Club, (2)  | Drinking Water | Failure to monitor-bacteria            | Order/Penalty | 5/19/87 |
| Orrie's Supper Club, Hudson (1)  | Drinking Water | Failure to monitor-bacteria            | Order/Penalty | 5/19/87 |
| Carrie Larsen & Robert O'Lonnell, Humboldt (2)                                 | Solid Waste    | Open dumping                           | Order/Penalty | 5/19/87 |
| Cherokee Co. Landfill Commission, Aurelia (3)                                  | Solid Waste    | Permit Renewal                         | Order/Penalty | 5/19/87 |
| Regional Environmental Improvement Commission and Glen Wolter, Iowa County (6) | Solid Waste    | Daily Operation                        | Order/Penalty | 5/19/87 |
| Trausch Co., Inc., Carroll (4)   | Air Quality    | Failure to obtain permit               | Order/Penalty | 5/21/87 |
| ISP, Inc., Storm Lake (3)  | Wastewater     | Permit violations, compliance schedule | Order         | 5/28/87 |



Shady Oaks Golf Course (Ackworth) - Water Supply  
Indian Creek Country Club (Nevada) - Water Supply

Mr. Combs stated that Redwood Resort should be deleted as they have filed a letter with the Department indicating that they are not a public water supply.

Shady Oaks Golf Course has paid their penalty and, therefore, should also be deleted.

Indian Creek Country Club has also paid their penalty and should be deleted.

#### OK Lounge - Marion

Mr. Combs briefed the Commission on the history of this case.

Motion was made by Clark Yeager for referral to the Attorney General's Office. Seconded by Donna Hammitt. Motion carried unanimously.

#### LEGISLATIVE STATUS REPORT

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

Following the end of the legislative session, the staff has had an opportunity to evaluate the results in terms of the Department's own proposals. At the June meeting, summaries of the contents of the bills will be available which provide a quick look at the substance of what the General Assembly has passed. Besides the summaries, copies of the enrolled bills will be provided as they are published.

To the extent that it is currently possible, the Commission will be provided with an analysis of the impact of the key provisions on the Department as well as the nature of the work that will need to be proceeding in the early days of implementation.

Other legislation which impacts the Department's environmental programs also will be reviewed.

Mr. Combs distributed the attached summaries of the groundwater protection bill and the waste management authority bill along with copies of the enrolled bills. Additional enrolled bills of interest to the Department were also distributed. Mr. Combs gave a detailed explanation of each of these bills. He also showed a chart of the following accounts contained in the Groundwater Protection Fund: solid waste account, agriculture management account, household hazardous waste account, storage tank management account, and the oil overcharge account. Also presented was an individual chart of each account listing the distribution of its funds.

Keith Uhl stated that he has been informed that a substantial number of professors in this state, at our major universities, keep their residence outside the state of Iowa so they do not have to pay any Iowa income tax. He stated that he would like to have it considered that professors or representatives from institutions who work on these programs be a resident of the state of Iowa.

**Department of Natural Resources  
SECTION 57 SECTION SUMMARY OF 1987 GRASS WATER BILL**

| Reference Section Bill | Code Reference | Lead Agency | Support Agency | Action          | Notes   | Amount                   | Fund Source | Activity |         |        |
|------------------------|----------------|-------------|----------------|-----------------|---|--------------------------|-------------|----------|---------|--------|
|                        |                |             |                |                 |   |                          |             | Start    | End     | Amount |
| 200                    | 200.011        |             |                | Applicability   | - Defines applicability of Code Right to Know law   |                          |             |          |         |        |
| 202                    | 202.111(20)    | DAW         |                | Rule Making     | - Reportable illnesses  | \$ 8,000                 | DAW         |          |         | X      |
| 202                    | 202.111(21)    | DAW         |                | Reporting       | - Ag-chemical related illness   | \$ 9,000                 | DAW         |          |         | X      |
| 203                    | 203.20         | DAW         |                | Responsibility  | - Who is responsible for reporting under 135.11(20)?  | \$ 2,000<br>\$ 1,000 STA | DAW<br>STA  |          |         | X      |
| 204                    | 204.211        | DAWS        |                | Policy          | - Encourage BPs in crop production  |                          |             |          |         |        |
| 205                    | 205.4          | DAWS        |                | Licenses        | - license to sell fertilizer - 010  |                          | Fert Fund   |          |         |        |
| 206                    | 206.011        | DAWS        |                | Inspection Fees | - 20¢/ton<br>- Manufacturer, in 25 lbs. or less, \$100 annually<br>- Anyone other than manufacturer, 25 lbs. or less, \$50 annually |                          | Fert Fund   | 7/01/87  |         | X      |
| 207                    | 207.012        |             |                | Fee Collection  | - Report to DALS on savings of sales  |                          | Fert Fund   |          |         | X      |
| 207                    | 207.014        | DAWS        |                | Inspection Fees | - Nitrogen fertilizer surcharge based on 82% solution - 75¢/ton   |                          | Fert Fund   |          |         | X      |
| 208                    | 208.9          | DAWS        |                | Authorization   | - Deposit and use of fert funds   |                          |             |          |         |        |
| 209                    | 209.211(2)     | DAWS        |                | Definitions     | - Commercial applicator   |                          |             |          |         |        |
| 209                    | 209.211(2)     | DAWS        |                | Definitions     | - Certified applicator  |                          |             |          |         |        |
| 211                    | 206.211(3)     | DAWS        |                | Definitions     | - Certified private applicator  |                          |             |          |         |        |
| 212                    | 206.211(3)     | DAWS        |                | Definitions     | - Certified commercial applicator   |                          |             |          |         |        |
| 213                    | 206.211(4)     | DAWS        |                | Definitions     | - Pesticide dealer  |                          |             |          |         |        |
| 214                    | 206.5          | DAWS        |                | Rule Making     | - Pesticide application certification program and rules for examination   |                          |             |          | 1/01/89 |        |
| 215                    | 206.013        | DAWS        |                | Administrative  | - Examination of commercial applicator  |                          |             |          |         |        |
| 216                    | 206.014        | DAWS        |                | Administrative  | - Commercial applicators renewal  |                          |             |          |         |        |

**Department of Natural Resources  
SECTION BY SECTION SUMMARY OF 1987 GRANT WATER BILL**

| Reference<br>Section<br>Bill | Code<br>Reference | Lead Agency | Support Agency             | Action           | Notes  | Amount                        | Fund<br>Source | Activity |         |         |
|------------------------------|-------------------|-------------|----------------------------|------------------|--|-------------------------------|----------------|----------|---------|---------|
|                              |                   |             |                            |                  |  |                               |                | Start    | End     | Revenue |
| 401                          | 18.3              | DOH         |                            | Authority        | - To administer provisions for state purchases of recycled products  |                               |                |          |         |         |
| 402                          | 208.1(1)          |             |                            | Authority        | - Joint financing for solid waste to energy projects   |                               |                |          |         |         |
| 403                          | 240.4             | UNE         | DOH/<br>Advisory Committee | Administrative   | - Establish a Small Business Asst. Center at UNE   | \$ 50,000<br>(for first year) | DAF            | 7/01/88  | 6/30/89 |         |
| 404                          | 458B.301          | DOH         |                            | Definitions      | - Closure, closure plan, lifetime of the project, financial assurance instrument, post closure care, post closure plan, manufacturer, leachate, actual cost  | \$ 242,000                    | SMA            | 7/01/89  |         | X       |
| 405                          | 458B.301A         | DOH         |                            | Policy Statement | - Protection of health, safety and welfare of humans.<br>- Provide for the most practical and beneficial use of the material and energy values of solid waste.<br>- Promote goals through waste management hierarchy.<br>- Volume reduction.<br>- Recycling and reuse.<br>- Combustion of refuse-derived fuel.<br>- Combustion for volume reduction.<br>- Disposal in landfill.<br>- Establish and maintain cooperative programs.<br>- Utilize capabilities of private enterprise. |                               |                |          |         |         |
| 406                          | 458B.304(3)       | EPC         | DOH                        | Rule Making      | - Not sewer sludge at landfills  |                               | SMA            |          |         |         |
| 407                          | 458B.304(6)       | EPC         | DOH                        | Rule Making      | - Post closure monitoring at landfills   |                               | SMA            |          |         |         |
| 408                          | 458B.304          | EPC         | DOH                        | Rule Making      | - Closure, leachate control, financial responsibility  |                               | SMA            |          |         |         |
|                              | 458B.304          | EPC         | DOH                        | Rule Making      | - Minimum distance between tiles and landfill  |                               | SMA            |          |         |         |

**Department of Natural Resources  
SECTION BY S1 CITY OF SUDBURY OF 1987 GRASS WATER BILL**

| Reference<br>Session<br>Bill | Code<br>Reference | Lead Agency    | Support Agency | Action         | Notes  | Amount | Fund<br>Source | Activity |         |        |
|------------------------------|-------------------|----------------|----------------|----------------|--|--------|----------------|----------|---------|--------|
|                              |                   |                |                |                |  |        |                | Start    | End     | Amount |
| 1002                         | 5070.3461         |                |                | Legisl         | - Program not affected by prohibitions on insurance and financial responsibility   |        |                |          |         |        |
| 1002                         |                   | B of Commerce  | DNR, Industry  | Administrative | - Create a plan of operations program in regard to financial responsibility including pool of insurers, mechanics for election of administrator, plan of operation for collection of expenses, claims process, actuarial review and determination of rate classifications          |        |                |          | 9/15/87 |        |
| 1002                         |                   | Leg. Committee | B of Commerce  | Legislation    | - A legislative committee shall propose legislation on ROP including cost of participation, base premium rate, amount of subsidization based on daily inventory, inventory monitoring system, secondary containment, funding source for subsidization, mechanics for exempt status |        |                |          | 1/01/88 |        |
| 1004                         | 4520.473<br>(13)  | DNR            |                | Administrative | - Registration of tanks to include new farm and resid.<br>- Existing farm tanks reported by 7/1/89<br>- New tanks comply with USF regulations of DNR   |        | STA            |          |         |        |
| 1005                         | 4520.473401       | DNR            |                | Enforcement    | - Unlawful to fill tank without tag more than once. Tag affixed to fill pipe of each tank.   |        | STA            |          |         |        |
| 1005                         | 4520.473401       | DNR            |                | Fees           | - \$10 registration fee per tank deposited to storage tank fund  |        |                | 7/01/87  |         |        |
| 1006                         | 4520.474<br>(12)  | DNR            |                | Administrative | - Owner of tank found not to be leaking may be reimbursed by the Commission, unless more than one tank is involved   |        | 6 Fund         |          |         |        |
| 1006                         | 4520.474<br>(12)  | DNR            |                | Rule Making    | - Filing claim for reimbursement related to determination of reasonableness  |        | STA            |          |         |        |

|  | <u>Page</u> |
|--|-------------|
| PROPOSED CONTESTED CASE DECISION -- GALE CONRAD . . . . .              | 34          |
| PROPOSED CONTESTED CASE DECISION -- LAKEWOOD SANITARY DISTRICT . . . . | 34          |
| PROPOSED CONTESTED CASE DECISION -- IBP, INC. . . . .                  | 34          |
| ADDRESS ITEMS FOR NEXT MEETING . . . . .                               | 34          |
| NEXT MEETING DATES . . . . .   | 34          |
| ADJOURNMENT . . . . .  | 35          |

Mr. Stokes stated that staff will present a Notice of Intended Action in August for approval to take the proposed rules to public hearing.

Mr. Stokes stated that it should be very clear that the department does not have the intention of implementing these procedures at this point in time. The proposed rules are simply a safety valve, in the unlikely event that the compact would not succeed.

**ENVIRONMENTAL PROTECTION COMMISSION [567]  
Notice of Intended Action**

Pursuant to Iowa Code section 455B.485, the Environmental Protection Commission proposes to adopt a new 567--Chapter 152, "Criteria for Siting Low-Level Radioactive Waste Disposal Facilities," Iowa Administrative Code.

In accordance with Iowa Code section 455B.485 paragraph 2, the Commission shall adopt rules establishing criteria for identification of sites which are suitable for the operation of low-level radioactive waste disposal facilities. In accordance with this authority, the Commission proposes to adopt rules which are similar to the existing rules in 567--Chapter 151, "Criteria for Siting Hazardous Waste Management Facilities." These rules provide exclusionary and quantitative criteria for site selection and the method to be used by the waste management authority for applying these criteria. These criteria are to be applied to facilities which are owned or operated by the state of Iowa and privately owned by the state of Iowa which are used for low-level radioactive waste disposal pursuant to 455B.485.

These amendments may impact small business.

Any interested person may file written comments on the proposed rules through October 15, 1987. Persons are also invited to attend public hearings on October 1, 1987 at 1:00 p.m. in the Trowbridge Hall Conference Room, Room 115B, Geological Survey Bureau, 123 North Capitol Street, Iowa City, Iowa; on October 2, 1987 at 1:00 p.m. in the fifth floor conference room, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa; and on October 6, 1987 at 11:00 a.m. in Room 006, Continuing Education Building, Iowa Western Community College, 2700 College Road, Council Bluffs, Iowa.

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**Chapter 152  
CRITERIA FOR SITING LOW-LEVEL RADIOACTIVE  
WASTE DISPOSAL FACILITIES**

567--152.1(455B) Authority, purpose and scope.

152.1(1) Authority. This chapter is authorized in the 1986 Iowa Code section 455B.485 paragraph 2, which relates to the siting of low-level radioactive waste disposal facilities.

152.1(2) Purpose. These regulations establish criteria for identifying sites which are suitable for operation of low-level radioactive waste disposal facilities. The waste management authority will apply these criteria to identify and recommend to the commission sites suitable for locating these facilities.

152.1(3) Scope. These regulations apply only to facilities which are owned or operated by the state of Iowa and privately owned or operated facilities which are located upon land owned by the state of Iowa which are used for low-level radioactive waste disposal pursuant to Iowa Code section 455B.485 paragraph 2.

RECENTLY VOTED ON

| No. Facility             | Program             | Engineer              | Subject                | Decision | Date     |
|--------------------------|---------------------|-----------------------|------------------------|----------|----------|
| 1 Peck City, City of     | Watermeter Const.   | Snyder & Associates   | Certain Well           | approved | 06/01/87 |
| 2 Toledo, City of        | Watermeter Const.   | H. A. Green Co.       | Interconnecting Piping | approved | 06/02/87 |
| 3 Marsh, City of         | Watermeter Const.   | Shawmut & Holland     | Minimum Sewer Size     | approved | 06/02/87 |
| 4 Klamath, City of       | Watermeter Const.   | Hollace, Holland, & S | Certain Well           | approved | 06/02/87 |
| 5 Pleasantville, City of | Watermeter Const.   | Gordon & Associates   | Sewer Design Depth     | approved | 06/02/87 |
| 6 Houston, City of       | Watermeter Const.   | Hall Engineering Co   | Pond Seal Testing      | denied   | 06/02/87 |
| 7 Pleasantville, City of | Watermeter Const.   | Gordon & Associates   | Cleanouts              | approved | 06/02/87 |
| 8 Pleasantville, City of | Watermeter Const.   | Gordon & Associates   | Interconnecting Piping | approved | 06/02/87 |
| 9 Pleasantville, City of | Watermeter Const.   | Gordon & Associates   | Holehole Spacing       | approved | 06/15/87 |
| 10 Hardin County         | Flood Plain         | Hardin Co. Engr.      | Floodboard             | approved | 06/15/87 |
| 11 Littlefield Rec. Area | Water supply Const. | Andersen Co. Engr.    | Construction Materials | approved | 06/15/87 |

1986 Department of Natural Resources  
Environmental Protection Commission  
RULEMAKING STATUS REPORT  
July 1, 1987

| PROPOSAL  | DRAFT TO COMMISSION | NOTICE PUBLISHED | RULES REVIEW COMMITTEE | HEARINGS                        | SUMMARY OF COMMENTS & RECOMMENDATIONS TO COMMISSION | RULES ADOPTED | RULES PUBLISHED | RULE EFFECTIVE |
|---|---------------------|------------------|------------------------|---------------------------------|---|---------------|-----------------|----------------|
| 1. Ch. 23 -<br>SD <sub>2</sub>                          | 5/26/87             | 6/17/87          | 7/08/87                | 7/07/87<br>7/08/87<br>7/16/87   |   |               |                 |                |
| 2. Ch. 40, 41 -<br>Fluoride MCL                         | 5/20/87             | 6/17/87          | 7/08/87                | 7/07/87<br>7/08/87<br>7/16/87   |   |               |                 |                |
| 3. Ch. 50 - 52<br>Water Allocation<br>(Conservation)    | 5/20/87             | 6/17/87          | 7/08/87                | 7-07-87<br>7-08-87<br>7-16-87   |   |               |                 |                |
| 4. Ch. 62 -<br>Effluent Standards                       | 7/21/87             |                  |                        |                                 |   | 7/21/87       | 8/12/87         | 8/16/87        |
| 5. Ch. 65 -<br>Feedlots                                 | 11/12/86            | 12/03/86         | 1/06/87<br>7/08/87     | 12/23/86<br>12/30/86<br>1/05/87 | 5/20/87   | 5/20/87       | 6/17/87         | 7/22/87        |
| 6. Ch. 100, 103 -<br>Landfill Groundwater<br>Monitoring | 5/16/87             | 5/28/87          | 6/16/87                | 6/09/87<br>6/16/87<br>6/11/87   |   |               |                 |                |
| 7. Ch. 135 -<br>Underground Tank Monitoring             | 12/15/86            | 1/14/87          | 2/16/87<br>6/10/87     | 2/03/87<br>2/05/87<br>2/10/87   | 4/21/87   | 4/21/87       | 5/20/87         | Delayed        |
| 8. Ch. 145 -<br>Used Oil                                | 6/17/87             | 8/12/87          |                        |                                 |   |               |                 |                |

\*Projected

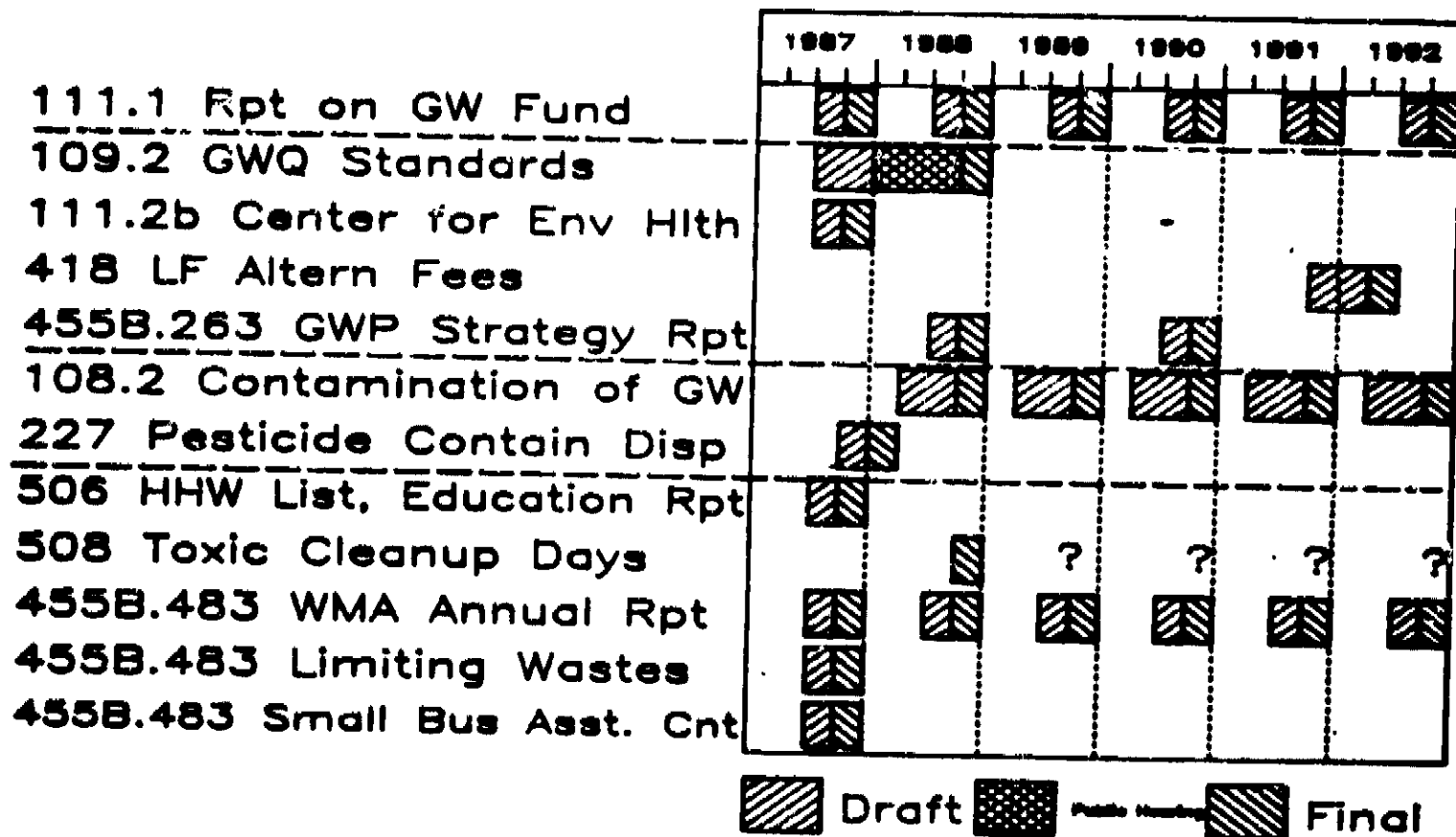
Department of Natural Resources  
Environmental Protection Commission  
Contested Cases  
July 1, 1987

| DATE RECEIVED | NAME OF CASE                       | ACTION APPEALED      | PROGRAM     | ASSIGNED TO | STATUS  |
|---------------|------------------------------------|----------------------|-------------|-------------|---|
| 9-16-86       | Belmont, et. al.                   | Administrative Order | MD          | Lands       | Proposed decision 11-4-89; appealed.          |
| 10-17-86      | City of Beaverton                  | Administrative Order | MD          | Hansen      | Hearing continued.                            |
| 1-23-87       | Delwin Soil Service                | Administrative Order | MD          | Lands       | Hearing continued.                            |
| 5-21-86       | Bosch and Reister                  | Administrative Order | SD          | Lands       | Settled.                                      |
| 6-12-86       | ADM - Clinton                      | Administrative Order | AIR         | Lands       | Hearing continued.                            |
| 7-30-86       | ISP - Columbus Junction            | NPDES Permit         | MD          | Hansen      | Hearing held 1-16-87; Second hearing 5-21-87. |
| 9-10-86       | Kula and Bago                      | Administrative Order | SD          | Lands       | Negotiating before filing. Removal started.   |
| 10/27/86      | Union County/Wittstock             | Permit issuance      | PP          | Clark       | Remanded by District Court.                   |
| 10/28/86      | Lafont Municipal Utilities         | Administrative Order | MD          | Hansen      | Negotiating before setting hearing.           |
| 10/29/86      | Hendri-Kloss Company, Inc.         | Administrative Order | AD/MD<br>SY | Lands       | Hearing continued.                            |
| 11/14/86      | Gale Conrad                        | Permit Condition     | PP          | Clark       | Proposed decision 6-16-87.                    |
| 12-03-86      | City of Waukesha                   | Administrative Order | MD          | Hansen      | Hearing continued.                            |
| 12/11/86      | Eloise Reese                       | Permit Condition     | PP          | Clark       | Hearing continued.                            |
| 12/24/86      | Francis Haeberlin                  | Administrative Order | PP          | Clark       | Hearing continued.                            |
| 2/ /87        | Agro, Inc.                         | Administrative Order | MD          | Lands       | Hearing set for 7-6-87.                       |
| 3/18/87       | Lakeview Sanitary District         | Administrative Order | MD          | Hansen      | Hearing held 6-29-87.                         |
| 3/18/87       | Deere and Company                  | Administrative Order | MD          | Murphy      | Negotiating before filing.                    |
| 3/18/87       | Greiner                            | Administrative Order | PP          | Clark       | Hearing held 6-30-87; Meyer/Vogel withdrew.   |
| 3/18/87       | City of Mt. Pleasant               | Administrative Order | MD          | Hansen      | Negotiating before filing.                    |
| 3/23/87       | City of Long Grove                 | Design Denial        | MD          | Hansen      | Hearing set for 7-15-87.                      |
| 3/23/87       | Troen and Mann                     | Administrative Order | SD          | Kennedy     | Negotiating before filing.                    |
| 4/14/87       | Scotty's Auction Service           | Administrative Order | SD          | Kennedy     | Negotiating before filing.                    |
| 4/14/87       | Chicago Central RR                 | Administrative Order | MD          | Lands       | Settled.                                      |
| 5/05/87       | Des Moines Metro SLF               | Administrative Order | SD          | Kennedy     | Hearing set for 7-16-87.                      |
| 5-12-87       | Marion County Care Facility        | Administrative Order | MD          | Kennedy     | Settled.                                      |
| 5-12-87       | Iowa City Regional ISP             | Administrative Order | MD          | Hansen      | Hearing set for 8-4-87.                       |
| 5-20-87       | Blanchi-Meyrat Lagoon (Mark Smith) | Administrative Order | MD          | Kennedy     | Hearing set for 8-5-87.                       |
| 5-20-87       | Caen Rapids                        | Variance Denial      | AQ          | Lands       | New case; settled.                            |
| 6-09-87       | Trench Company, Inc.               | Administrative Order | AQ          | Lands       | New case                                      |
| 6-10-87       | City of Toledo                     | Administrative Order | MD          | Hansen      | New case.                                     |
| 6-11-87       | Thomas Linton                      | Administrative Order | PP          | Clark       | New case.                                     |
| 6-15-87       | Robert O'Donnell                   | Administrative Order | SD          | Kennedy     | New case.                                     |

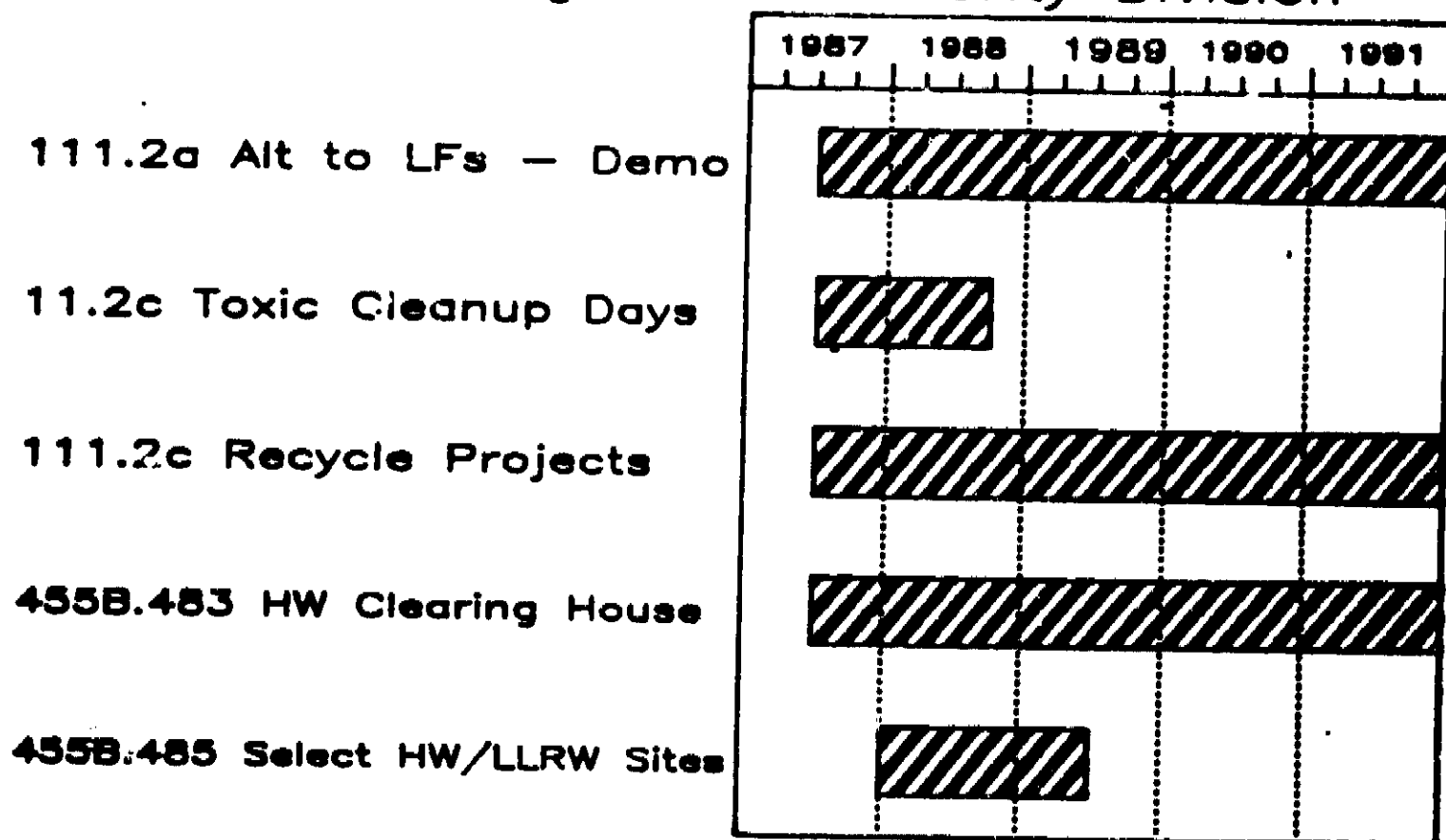


- ITEM 8. Amend subrule 62.4(11) as follows:  
62.4(11) Cement manufacturing point source category. The following is adopted by reference: 40 CFR part 411 as revised on July 9, 1986 (51 FR 24974).
- ITEM 9. Amend subrule 62.4(12) as follows:  
62.4(12) Feedlots point source category. The following is adopted by reference: 40 CFR part 412 as revised on July 9, 1986 (51 FR 24974).
- ITEM 10. Amend subrule 62.4(13) as follows:  
62.4(13) Electroplating point source category. The following is adopted by reference: 40 CFR part 413 as amended on November 7, 1986 (51 FR 40420).
- ITEM 11. Amend subrule 62.4(18) as follows:  
62.4(18) Fertilizer manufacturing point source category. The following is adopted by reference: 40 CFR part 418 as revised on July 9, 1986 (51 FR 24974).
- ITEM 12. Amend subrule 62.4(19) as follows:  
62.4(19) Petroleum refining point source category. The following is adopted by reference: 40 CFR part 419 as amended on July 12, 1985 (50 FR 28522) and corrected on August 12, 1985 (50 FR 32414).
- ITEM 13. Amend subrule 62.4(21) as follows:  
62.4(21) Nonferrous metals manufacturing point source category. The following is adopted by reference: 40 CFR part 421 as amended on September 20, 1985 (50 FR 38342) and corrected on October 9, 1985 (50 FR 41144) and December 26, 1985 (50 FR 42775) as revised on February 3, 1987 (52 FR 3230).
- ITEM 14. Amend subrule 62.4(22) as follows:  
62.4(24) Phosphate manufacturing point source category. The following is adopted by reference: 40 CFR part 422 as revised on July 9, 1986 (51 FR 24974).
- ITEM 15. Amend subrule 62.4(24) as follows:  
62.4(24) Ferroalloy manufacturing point source category. The following is adopted by reference: 40 CFR part 424 as revised on July 9, 1986 (51 FR 24974).
- ITEM 16. Amend subrule 62.4(26) as follows:  
62.4(26) Glass manufacturing point source category. The following is adopted by reference: 40 CFR part 426 as revised on July 9, 1986 (51 FR 24974).
- ITEM 17. Amend subrule 62.4(30) as follows:  
62.4(30) Pulp, paper and paperboard point source category. The following is adopted by reference: 40 CFR part 430 as amended on December 17, 1986 (51 FR 45232).
- ITEM 18. Amend subrule 62.4(31) as follows:  
62.4(31) Builders paper and roofing felt segment of the builders paper and board mills point source category. The following is adopted by reference: 40 CFR part 431 as amended on December 16, 1986 (51 FR 45232).
- ITEM 19. Amend subrule 62.4(32) as follows:  
62.4(32) Heat products point source category. The following is adopted by reference: 40 CFR part 432 as amended on July 9, 1986 (51 FR 24974).
- ITEM 20. Amend subrule 62.4(33) as follows:  
62.4(33) Metal finishing point source category. The following is adopted by reference: 40 CFR part 433 as amended on November 7, 1986 (51 FR 40420).
- ITEM 21. Amend subrule 62.4(39) as follows:  
62.4(39) Pharmaceutical manufacturing point source category. The following is adopted by reference: 40 CFR part 418 as revised on July 9, 1986 (51 FR 24974).

# DNR Activities Reports to the General Assembly 1987 Groundwater Bill



Other DNR Activities  
Related to 1987 Groundwater Bill  
Waste Management Authority Division



62-1-14  
July 1987

MEETING AGENDA  
ENVIRONMENTAL PROTECTION COMMISSION  
WALLACE STATE OFFICE BUILDING  
July 20-21, 1987

Meeting Convened at 1:00 p.m., July 20, 4th floor conference room and reconvenes on July 21, 8:30 a.m.

Break 3:00 p.m.

Public Participation 3:30 p.m.

Meeting Reconvenes 8:30 a.m. July 21

Appointment:

Burlington Northern Representative 9:00 a.m.

1. Approval of Agenda.
2. Approval of Minutes of June 15, 1987.
3. Discussion of Tank Monitoring Rules Applicability. (Stokes) Informational.
4. Director's Report. (Wilson) Informational.
5. Report on Low Level Radioactive Waste Compact Meeting. (Wilson) Informational.
6. Proposed Rules for Low Level Radioactive Waste. <sup>Chapter 152</sup> (Stokes) Informational.
7. Monthly Reports. (Stokes) Informational.
8. Update on Chichaqua. (Stokes) Informational.
9. Construction Grant Funding. (Stokes) Informational.
10. Notice of Intended Action--Chapter 143, Amendment to Waste Oil Rules. (Stokes) Decision.
11. Approval of NPDES Rules Revision--Chapter 62. (Stokes) Decision.
12. Withdrawal of Rulemaking--Chapter 43, Water Supply Grants. (Stokes) Decision.
13. Contract Report. (Kuhn) Informational.
14. Approval of UHL Contract for Sample Collection and Analytical Work. (Kuhn) Decision.
15. Approval to Amend FY87 UHL Contract for Sample Analysis Services. (Kuhn) Decision.

Motion was made by Richard Timmerman to approve the purchase of an organic vapor analyzer at a cost of \$8,400. Seconded by Nancylee Siebenmann. Motion carried unanimously.

#### STATUS REPORT—APPROPRIATIONS FY-88

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

DNR General Fund Operating Appropriation. The approved FY88 General Fund appropriation for operations is \$10,149,123. The requested FY88 appropriation was \$12,080,232, and the actual FY87 appropriation was \$9,625,817. Salary adjustments for FY88 related to the General Fund have not yet been calculated, and will be in addition to the above amount.

After allowing for the cost of FY87 annualized merit increases (The full cost in FY88 of salary increases granted during the year in FY87) and the additional cost of the enhanced IPERS contribution for park rangers, the DNR will have approximately the same General Fund support for FY88 as was available for FY87. All divisions that are funded in part from the General Fund will operate at about the same level as currently.

For the Environmental Protection Division, the operating budget for FY88 is estimated at from \$5.3 to \$5.5 with an FTE limit of 123.50 positions. The FY87 budget, for comparison purposes, is \$5,251,000 with an approved FTE of 123.50. The impact of the Ground Water Protection bill is addressed separately.

Only one decision package funded by the General Fund above the current level of operations was approved. That package was \$33,000 for Preserves related research. No other decision packages above current level were approved, including the package for Mississippi and Missouri River Basin Commission membership.

5% Sewage Treatment Grants. \$1,278,008 was appropriated for FY88. The actual appropriation for FY87 was \$1,865,694; and the request for FY88 was \$2,000,000.

RCRA. The appropriation bill contains language continuing the suspension of certain implementation authorities as was previously the case.

Midwest Interstate Low-Level Radioactive Waste Compact. \$45,000 was approved for membership in FY87 and \$60,000 for membership in FY88.

Ground Water Protection Bill. This legislation will impact the budgets of most divisions and programs. A Waste Management Authority Division was created. The DNR anticipates adding a significant number of staff with funding to come from this bill. Existing staff will have to absorb much of the implementation work. A separate budget and implementation plan will be presented to the commissions related to the Ground Water program.

# Summary of Administrative Penalties

The following administrative penalties are due:

| <u>BANK/LOCATION</u>                          | <u>AMOUNT</u> | <u>DUE DATE</u> |
|---|---------------|-----------------|
| *Shelter Shield (Buffalo Center)              | \$1,000       | 12-03-86        |
| *Lawrence Payne (Ottumwa)                     | 700           | 12-03-86        |
| *Country Corner Cafe (Prairie Junction)       | 400           | 12-21-86        |
| *Cedar Hills Apartments (Dubuque)             | 1,000         | 12-29-86        |
| *Chico's Supper Club (Burr Oak)               | 863           | 2-10-87         |
| Redwood Resort (Ruthven)                      | 289           | 3-07-87         |
| *City of Dysart                               | 400           | 3-13-87         |
| OK Lounge (Marion)                            | 448           | 3-29-87         |
| Shady Oaks Golf Course (Ackworth)             | 212           | 4-04-87         |
| Indian Creek Country Club (Nebraska)          | 62            | 5-01-87         |
| Rhinohart Construction Co. (W. Dallas SLF)    | 800           | 5-15-87         |
| Giese Construction Co. (Eagle Grove)          | 1,000         | 5-25-87         |
| *K & K Truckstop (Lamar)                      | 187           | 6-01-87         |
| Chicago Central & Pacific RR (Fort Dodge)     | 1,000         | 6-08-87         |
| Belano's Lounge (Ainsworth)                   | 336           | 6-08-87         |
| The Midway (Holy Cross)                       | 336           | 6-08-87         |
| The Moore Oil Co. (West Branch)               | 336           | 6-09-87         |
| Fox Keller Rink (Camanche)                    | 172           | 6-10-87         |
| City of Waterloo                              | 1,000         | 6-14-87         |
| City of Kellogg                               | 500           | 6-15-87         |
| Lake Koshuk Yacht Club (Koshuk)               | 224           | 6-19-87         |
| Kingsbury Inn (Columbus Junction)             | 150           | 6-20-87         |
| Sport Wada, Inc. (Weldon)                     | 224           | 6-20-87         |
| Broadview Courts (Dubuque)                    | 324           | 6-26-87         |
| Claremont Country Club (Clarion)              | 174           | 6-28-87         |
| The Bank (Turin)                              | 212           | 6-28-87         |
| J.I. Case, Inc. (Bertendorf)                  | 500           | 6-28-87         |
| Madison County Home                           | 600           | 6-29-87         |
| Telegraph Water Assn. (Davenport)             | 50            | 6-30-87         |
| City of Sum                                   | 530           | 7-01-87         |
| Country Living MHP (Altoona)                  | 400           | 7-06-87         |
| Monti-View MHP (Monticello)                   | 200           | 7-06-87         |
| Valley Inn (Cresco)                           | 503           | 7-10-87         |
| Thomas E. Lannon (Barnum)                     | 700           | 7-11-87         |
| City of Toledo                                | 500           | 7-12-87         |
| Reichliffe Farmers Coop                       | 500           | 7-18-87         |
| Deany's Ag Supply (Charles City)              | 500           | 7-19-87         |
| Neuerich Homes of Carroll                     | 1,000         | 7-19-87         |
| Winnabago Industries, Inc.                    | 600           | 7-19-87         |
| Eagle Grove Country Club                      | 386           | 7-19-87         |
| E.J. Rath, Inc. (Missouri Valley)             | 50            | 7-20-87         |
| Larsen/O'Donnell (Humboldt)                   | 500           | 7-20-87         |
| Cherokee County Landfill Commission           | 600           | 7-20-87         |
| Regional Environmental Imp. Comm. (Marquette) | 1,000         | 7-20-87         |
| Orrie's Supper Club (Madison)                 | 336           | 7-21-87         |
| Truesch Co., Inc. (Carroll)                   | 1,000         | 7-25-87         |
| Elings/Catron/Frey (Des Moines)               | 1,000         | ----            |
| Frederika's Tap (Frederika)                   | 50            | 8-01-87         |
| Livestock Placement Service (Jefferson Co.)   | 500           | ----            |

\* Referred to the Attorney General  
\*\* On Payment Schedule

Mr. Combs responded that the Department will be represented on several of the advisory committees that will be involved in selecting directors of some of the centers created by legislation, and that staff will keep Mr. Uhl's suggestion in mind.

He added that Director Wilson has established an internal committee of four division administrators and Deputy Director Fagerland to come up with a plan for creating the Waste Management Authority Division. Allan Stokes is chairman of this committee.

A discussion followed regarding various aspects of the groundwater bill. Mr. Combs stated that General Provisions, Part One of the groundwater bill is a new section of the Code and is not tied to 455B.

Mr. Combs stated that the Department has recommended that the Governor establish, by executive order, a Groundwater Implementation Committee to consist of the Director of DNR, the Secretary of Agriculture, the Director of the Department of Public Health, the Executive Secretary of the Board of Regents, and the Director of the Department of Management. The Director of DNR will serve as the chairman of this committee.

The primary purpose of this committee is to assist the Director of DNR in his responsibilities to coordinate all of the executive branch activities making sure that rule adoptions are done properly and consistently, along with dissemination of information, evaluating the implementation of changes in the Code to be appropriate for the budget requests of 11 agencies, direct and coordinate all research related to groundwater production, and coordinate efforts to identify and secure private sources to supplement state funding.

Allan Stokes stated that the Commission will be quite busy in August, September and October as the rulemaking items required by the groundwater bill will be presented to them.

Following are summaries of the Groundwater and Waste Management Authority bills.

**Department of Natural Resources  
SECTION ON SECTION SUPPORT OF 1987 GRASS WATER BILL**

| Reference Section Bill | Code Reference         | Lead Agency      | Support Agency              | Action           | Notes   | Amount     | Fund Source | Activity |     |
|------------------------|------------------------|------------------|-----------------------------|------------------|---|------------|-------------|----------|-----|
|                        |                        |                  |                             |                  |   |            |             | Start    | End |
| 217                    | 206.6(6)               | BALS             |                             | Administrative   | - Public applicators certification  |            |             |          |     |
| 218                    | 206.7(1)               | BALS             |                             | Administrative   | - Application of pesticides without certification   |            |             |          |     |
| 219                    | 206.8(2) &<br>206.8(3) | BALS             |                             | License Fee      | - Pesticide sales surcharge<br>625 7/1/87<br>1/10th of 1% of Gross Sales<br>7/1/88                          |            | Post Fund   |          | X   |
| 220                    | 206.8(4)               | BALS             |                             | License Fee      | - Non-retail sales of pesticides 625/Location   |            | Post Fund   |          |     |
| 221                    | 206.9                  | BALS             |                             | Coop Agreements  | - Secretary may enter into coop agreements with extensions to conduct courses regarding pest. 600's         |            | Post Fund   |          |     |
| 222                    | 206.12(3)              | BALS             |                             | Registration fee | - Pesticide registration fee 1/5th of 1% of Gross Sales 6250 min. to 83,000 max.                            |            | Post Fund   |          |     |
| 223                    | 206.12(7)              | BALS             |                             | Data Collection  | - Reporting pesticide sales to BALS   |            | Post Fund   |          | X   |
| 224                    | 206.19(3)              | BALS             |                             | Rule Making      | - Urban pesticide use, public notification  |            |             |          |     |
|                        | 206.19(3)A             | BALS             |                             | Rule Making      | - Guidelines for notification when spraying on public road right-of-ways                                    |            |             |          |     |
|                        | 206.19(4)              | BALS             |                             | Rule Making      | - Establish civil penalties for violations by commercial applicators  |            |             |          |     |
| 225                    | 206.21(3)              | BALS             | Advisory Committee          | Rule Making      | - Establish pesticide management areas in areas of concern  |            |             |          |     |
| 226                    | 206.24                 | BALS             |                             | Administrative   | - Program of education and demonstration in pesticide management  |            |             |          |     |
| 227                    | 206.25                 | BALS             | BWR (EPH)                   | Reporting        | - To legislators on used pesticide container disposal   |            | 600         | 7/01/87  | X   |
| 228                    | 263.14(1)              | Board of Regents | U of T, UMN, BWR, BGR, BALS | Administrative   | - Establish center for health effects of environmental contamination and report annually to the legislature | \$ 300,000 | 600         | 7/01/89  | X   |



**Department of Natural Resources  
SECTION OF SOLID WASTE MANAGEMENT OF 1987 GENERAL BUDGET BILL**

| Reference Section Bill | Code Reference | Lead Agency | Support Agency | Action         | Notes  | Amount | Fund Source | Activity |         |      |
|------------------------|----------------|-------------|----------------|----------------|--|--------|-------------|----------|---------|------|
|                        |                |             |                |                |  |        |             | Start    | End     | Area |
| 308 (Cont)             | 4520.304       | EPC         | DMR            | Rule Making    | - Grants for solid waste management projects to meet state goals and policy  |        | DMR         |          |         |      |
|                        | 4520.304       | EPC         | DMR            | Rule Making    | - Sanitary landfill operator certification   |        | DMR         |          | 7/01/90 |      |
| 309                    | 4520.305(5)    | DMR         | EPC            | Permitting     | - Statement required to indicate that alternatives have been studied. Decision of the director subject to review by Commission.  |        | DMR         | 7/01/92  |         |      |
| 310                    | 4520.305(6)    | DMR         |                | Permitting     | - Landstate control requirement  |        | DMR         | 7/01/92  |         |      |
| 311                    | 4520.306(1)    | DMR         |                | Administrative | - Sanitary disposal project file. Comprehensive plan for meeting the state's goals and policies  |        | DMR         |          |         |      |
| 312                    | 4520.306(2)    | DMR         |                | Administrative | - Comprehensive plan updates will be submitted at time of permit renewal for sanitary disposal projects  |        | DMR         |          |         |      |
| 313                    | 4520.306(3)    | DMR         |                | Administrative | - Comprehensive plan will reflect the waste management hierarchy and economic feasibility.<br>- Plan will also include: closure and 30 year post closure plan, landstate control and treatment, financial statement, emergency response and remedial action. |        | DMR         |          |         |      |
| 314                    | 4520.306(4)    | EPC         | DMR            | Rule Making    | - Financial insurance instrument, sanitary landfill closure accounts required for SPP permits  |        | DMR         | 7/01/90  |         |      |
| 315                    | 4520.307       | EPC         | DMR            | Rule Making    | - Permits for private and public agency disposal are plans other than sanitary landfill<br>- Civil penalties based on toxicity and severity of violation up to \$500/day   |        | DMR         |          |         |      |



MINUTES  
ENVIRONMENTAL PROTECTION COMMISSION  
Wallace State Office Building  
Fourth Floor Conference Room  
Des Moines, Iowa  
July 20-21, 1987

The meeting of the Environmental Protection Commission was held at the Wallace State Office Building in Des Moines, Iowa on July 20 and 21, 1987 convening at 1:00 p.m. on July 20.

MEMBERS PRESENT

Richard Timmerman, Clark Yeager, Charlotte Mohr, Keith Uhl, Nancy Lee Siebenmann, Robert Schlutz, Donna Hammitt.

MEMBERS ABSENT

Catherine Dunn, Gary Prieba.

ADOPTION OF AGENDA

The following items were added to the agenda: Proposed Contested Case Decisions for Gale Conrad, Lakewood Sanitized Sanitary District, and IEP, Inc.

Motion was made by Charlotte Mohr to approve the agenda as amended. Seconded by Richard Timmerman. Motion carried unanimously.

ADOPTION OF MINUTES

The following corrections were made to the minutes of June 15, 1987: Page 11, last paragraph, line three, the words "so they do not have to pay any Iowa income tax" should be changed to "with the effect being they pay no Iowa income tax."

Page 10, the following should be added to paragraph three: The maximum contaminant level was changed from 2.2 mg/l to 4 mg/l.

Motion was made by Nancy Lee Siebenmann to approve the minutes of June 15, 1987 as amended. Seconded by Donna Hammitt. Motion carried unanimously.

DISCUSSION OF TANK MONITORING RULES APPLICABILITY

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

Mr. Stokes stated that in mid-June there was a possibility of miscommunication from staff to individuals who own underground storage tanks. Evidently, in two or three instances, there had been previous releases evident from storage tanks which were being replaced. The individuals who owned these tanks interpreted that we were requiring them to put in secondary containment structures, double wall tanks, in these instances. On June 22, Mr. Stokes sent a memorandum to all field offices clarifying the point that we do not have the legal authority

567--152.2(455B) Definitions. In addition to the definitions in Iowa Code section 455B.481, the following definitions apply to this chapter:

"Aquifers" means water-bearing geological formations, group of formations, or part of a formation that is capable of yielding significant amounts of groundwater for beneficial use.

"Conservation area" means any park, recreation area, wildlife area, forest, prairie, preserve, natural area, scenic area owned, managed, or under control of any government agency or organized conservation group on or before the date of enactment of these rules.

"Criterion" means a test, rule, measure, or model by which judgment will be made.

"Critical wildlife habitat" means any areas known to be inhabited on a seasonal or permanent basis by, or to be critical at any stage of the life cycle of any wildlife or vegetation identified as "rare," "threatened," or "endangered" by official federal or state lists of species, or is under active consideration for listing.

"Cultural area" means any known property of recognized archaeological, architectural, cultural or historical significance as listed in or eligible for the National Register of Historic Places, the significant State Site records of the Office of Historic Preservation, the Office of the State Archaeologist, or is under active consideration for listing. Archaeological property shall include, but is not limited to, ancient mortuary sites.

"Dam hazard area" means any area identified as areas of dynamic flooding below a dam (the inundation zone) or areas of static flooding above a dam (flood pool). The inundation zone includes the area that would be flooded by a flood wave generated by dam failure during a one hundred (100)-year flood. The static flooding zone is equal to the pool level reached during a one hundred (100)-year inflow flood, or the top of the dam, whichever is greater.

"Drinking water source" means the groundwater or surface water intake of drinking water used for human consumption.

"Facility" means any hazardous waste management facility including land and structures, appurtenances, improvement and equipment for handling, treatment, storage or disposal of hazardous wastes.

"Floodplain" means the land adjacent to a stream which has been or may be inundated by a flood having the magnitude of the regional one hundred (100)-year flood.

"Geological hazard structures" means any faults, fracture zones, or other structures that may provide pathways to groundwater.

"Karst areas" means a type of topography or surface area covered by alluvial or colluvial sediments that may form over limestone, dolomite, or gypsum formations by dissolving or solutions, and that are characterized by closed depressions or sinkholes, caves, and underground drainage.

"Mineral and energy resources" means minerals, construction materials, metals, coal, gas, and oil.

"Mining activity" means any area of past or present underground or surface mining, mineral extraction, or major exploration or production drilling for oil, gas, or mineral resources, and any area likely to be influenced by mining activity through subsidence or surface deformation.

"Nonattainment area" means any area not attaining the National Ambient Air Quality Standards as defined in Part D of the Clean Air Act.

"Population area" means any commercial, school, church, social, medical facility, elderly housing, correctional facility, mobile home park, or incorporated residential area.

# REPORTS OF HAZARDOUS CONDITIONS

During the period of June 1, 1987 through June 30, 1987, reports of 73 hazardous conditions were forwarded to the Central Office. Two incidents are highlighted, followed by a general summary and the number per field office.

| Date Reported and County | Description: Material, Amount, Date of Incident, Cause, Location, Impact   | Responsible Party  | Response and Corrective Actions   |
|--------------------------|--|--|---|
| 6/01/87<br>LEE           | A hose connecting a tank truck to a storage tank sprung a leak while transferring sulfuric acid at Fort Madison, IA on June 1, 1987, and about 150 gallons of product spilled onto the roadway and into the ditch. | Amex<br>P.O. Box 220<br>Fort Madison, Iowa<br>52627              | The road ditch was dammed with bags of soda ash. Soda ash was scattered over the accumulated acid. Acid on the roadway was flushed into the ditch with water and diluted. The pH was monitored until the mixture was neutral. |
| 6/12/87<br>HOWARD        | A truck rolled backward into a road ditch near Cresco, Iowa on June 12, 1987, and about 1,100 gallons of a mixture containing 28% nitrogen fertilizer and ammonium thiosulfate spilled onto a field.               | Hunting Elevator Co., Route 4,<br>Box 21A, Cresco, Iowa<br>52136 | About 150 gallons of liquid were recovered. Contaminated soil was excavated and spread on a nearby pasture. Topsoil was replaced.   |

Numbers in Parentheses Represent Totals For The Same Period In Fiscal Year 1986

| Month | Total # of Incidents Reported | Substances Damaged |               |                                | Type                 |          |                  |             |       |       |
|-------|-------------------------------|--------------------|---------------|--------------------------------|----------------------|----------|------------------|-------------|-------|-------|
|       |                               | Petroleum Product  | Agr. Chemical | Other Chemicals and Substances | Handling and Storage | Pipeline | Highway Incident | RR Incident | Fire  | Other |
| Oct   | 75                            | 43                 | 0             | 34                             | 55                   | 0        | 18               | 2           | 0     | 4     |
| Nov   | 24                            | 12                 | 3             | 9                              | 17                   | 0        | 5                | 1           | 0     | 1     |
| Dec   | 43                            | 24                 | 1             | 6                              | 24                   | 1        | 14               | 1           | 0     | 2     |
| Jan   | 46                            | 22                 | 3             | 15                             | 57                   | 0        | 9                | 0           | 1     | 1     |
| Feb   | 41                            | 25                 | 1             | 1                              | 30                   | 1        | 5                | 1           | 2     | 2     |
| Mar   | 55                            | 35                 | 5             | 15                             | 57                   | 0        | 12               | 4           | 1     | 1     |
| Apr   | 70                            | 32                 | 25            | 21                             | 91                   | 2        | 16               | 3           | 2     | 2     |
| May   | 74                            | 24                 | 29            | 21                             | 39                   | 0        | 24               | 2           | 6     | 3     |
| June  | 73 (78)                       | 34 (19)<br>687-19  | 11 (26)       | 28 (26)                        | 47 (59)<br>687-19    | 1 (1)    | 14 (29)          | 1 (1)       | 2 (0) | 0 (0) |

Total # of Incidents Reported For

687-19 4 5 4 3 2 2

### STATUS OF THE CHICHAQUA CHANNEL CHANGE PROJECT

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

During the week of June 22, essentially all of the restoration work in the Chichaqua Wildlife Area was completed. Department staff visited the site on June 25 and determined that, except for a small amount of riprap yet to be placed and the seeding, the work was completed in accordance with departmental directives.

Since the work has essentially been completed, no additional status reports will be forthcoming. A staff member will make an additional site visit later this year to insure that the seeding has been performed.

### STATE CONSTRUCTION GRANT STATUS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

State construction grants have provided an important five percent assistance in the financing of wastewater projects. Recently, state construction grant funds were nearly depleted. A recent fiscal 1988 legislative appropriation of \$1.2 million is projected to be totally obligated to projects scheduled for fiscal 1987 federal funding. This will leave unfunded demands for state grants for fiscal 1988 federally funded projects. It is important that the Commission be informed as to state grant needs, options and state grant administration. Grantee interest requires the state to have a clear procedure for grant administration.

It appears there will be a shortage of approximately \$2.5 million in funds to provide state grants to eligible cities which will receive federal fiscal 1987 and 1988 funds by July of 1988. Options include ending the state grant program, supplemental fiscal 1988 state appropriations or fiscal 1989 appropriations. Present rules permit the use of any appropriations to be used for eligible grant needs.

Mr. Stokes presented a chart showing projected state grant needs. He then explained that as monies become available state grants will be offered to communities in the order in which they received federal dollars. He stated that this does not constitute deficit spending, as an obligation is not made until the dollars are in hand. The five percent match is a completely separate grant agreement.

Mr. Stokes stated that the issue is whether or not we want to continue to work under the premise of when the dollars become available that we would go back and make the state five percent match grants to communities in the order they received the grants, or whether the Commission wants to establish some other kind of premise.

Mr. Stokes commented that it is by rule that we tie the five percent state grant to the federal grant. One option is to address in the rules how to

ITEM 22. Amend subrule 62.4(55) as follows:  
62.4(55) Pesticide chemicals manufacturing point source category. The following is adopted by reference: 40 CFR part 455 as revised on December 15, 1986 (51 FR 44911).

ITEM 23. Amend subrule 62.4(61) as follows:  
62.4(61) Battery manufacturing point source category. The following is adopted by reference: 40 CFR part 461 as amended on August 28, 1986 (51 FR 30814).

ITEM 24. Amend rule 62.5(455B) to read as follows:  
567--62.5(455B) Federal toxic effluent standards. The following is adopted by reference: 40 CFR 129, revised as of July 1, 1986.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Larry J. Wilson, Director

Motion was made by Keith Uhl to approve Emergency Adopted Rule Revision--Chapter 62, Effluent Standards. Seconded by Charlotte Mohr. Motion carried unanimously.

#### CHAPTER 43 -- WATER SUPPLY GRANTS AUTHORIZED UNDER 455B.309

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission is requested to rescind the Notice of Intended Action for Chapter 43 of the IAC previously approved by the Commission on May 20, 1987.

Chapter 43 of IAC was proposed to implement the award of grants to water supplies for the abatement or elimination of threats to public health and safety resulting from contamination of a water supply source as authorized under Iowa Administrative Code Chapter 455B, Subsection 309.4.

- Section 116 of House File 631, Seventy-Second General Assembly signed June 9, 1987 repealed Iowa Code section 455B.309 (1987). Accordingly, the authorization to proceed with this grant program no longer exists.

Motion was made by Donna Hammett to rescind the Notice of Intended Action--Chapter 43, Water Supply Grants. Seconded by Clark Yeager. Motion carried unanimously.

#### RECESS

Chairman Schluts recessed the meeting at 4:47 p.m. on Monday, July 20, 1987.

MEETING RESUMES -- 8:30 A.M., JULY 21

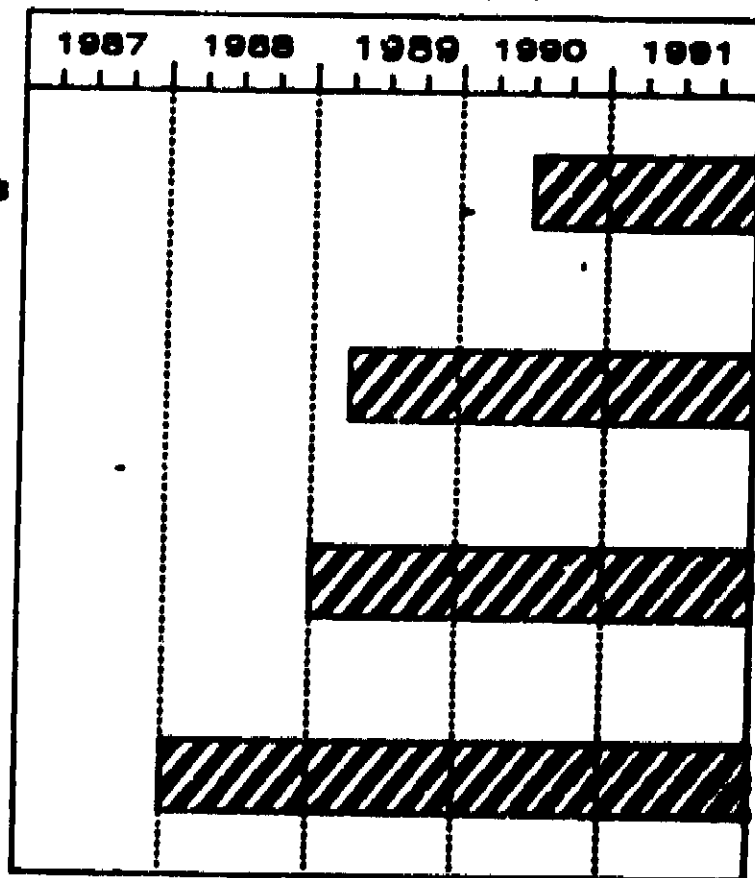
Other DNR Activities  
Related to 1987 Groundwater Bill  
Administrative Services Division

227 Conservation Easements

408 LF Op Cert Program

416 Fee Collection — SW

607 Fee Collection — UST





### REFERRALS TO THE ATTORNEY GENERAL

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the Commissioners and are confidential pursuant to Iowa Code Section 22.7(4).

Burlington Northern Railroad - Air Quality  
The Midway (Holy Cross) - Penalty Collection

The King Management case, previously tabled, is requested to be left on the table until the August meeting, as staff is attempting to resolve that case.

The Midway (Holy Cross) has paid their penalty and should be deleted from the list.

### Burlington Northern Railroad

Mr. Combs briefed the Commission on the history of this case.

Randall Clark of the Legal Bureau stated that there had been previous open burning violations by Burlington Northern and reviewed them for the Commission. These violations resulted in a court injunction and penalty in 1985. He then presented a slide series and transparencies showing where more recent open burning of railway cars took place. Burning had taken place on Burlington Northern property near Pacific Junction.

Mr. Clark stated that after learning that Hitchcock Scrap Yard was authorized to conduct scrapping of railroad cars at that particular site they were informed, in an letter dated April 2, 1986, that it was a violation and a copy of the letter was sent to Burlington Northern Railroad.

On April 19, 1986 the county sanitarian observed three burning boxcars at the same site. The Department then requested the Attorney General's Office to pursue legal proceedings against Burlington Northern Railroad because of the court injunction the Department had through a previous referral. The Attorney General's Office notified Burlington Northern that it was legally responsible for such burning on its property. Mr. Clark added that on March 6, 1987 the Mills County Sanitarian and the Mills County Sheriff observed open burning of a boxcar at the same site.

The Attorney General's Office was notified in May, 1987 by an attorney for Hitchcock Scrap Yard that Hitchcock had not been associated with the Pacific Junction site since July, 1986. He related that Osark Demolition was working in the area.

Mr. Clark stated that on June 3, 1987 Alan Goldberg of the Department's District 4 Office, in visiting with Jack McManigal, a D.O.T. maintenance yard

Page 2

16. Groundwater Update. (Combs) Informational.

17. Referrals to Attorney General's Office. (Combs) Decision.

17A. *Proposed Contested Case Decisions-- Gale Conrad, Lakewood Beneficial Sanitary District,*  
18. Address Items for Next Meeting. *and ZB, Inc.*

NEXT MEETING DATES

August 17-18, 1987

September 21-22, 1987

October 19-20, 1987

**FY88 Budget.** A budget for FY88 is currently being prepared, by division and by program. This will be presented to the Environmental Protection Commission and the Natural Resources Commission for review and approval.

**FY89 Budget Request.** Staff is beginning work on the FY89 budget request. Key issues will be reviewed with the appropriate commission as the request is being developed. Commissioners are urged to make their concerns and suggestions regarding the budget request known to the Director at the earliest opportunity.

Discussion followed regarding five percent match money for sewage treatment grants. Also discussed was the Midwest Interstate Low Level Radioactive Waste Compact.

### MONTHLY REPORTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

from Department of Natural Resources  
Environmental Protection Commission  
Rulemaking Status Report  
June 1, 1987

| NO. OF  | DRAFT TO COMMISSION | REVISIONS FORWARDED | RULES REVIEW COMMITTEE | HEARING                        | REPORT OF COMMISSION TO COMMISSION | RULES ADOPTED | RULES FORWARDED | RULES OPPOSITIVE |
|---|---------------------|---------------------|------------------------|--------------------------------|------------------------------------|---------------|-----------------|------------------|
| 1. Ch. 8 -<br>Sanitary Rules                            | 1/28/87             | 2/11/87             |                        | --                             | 3/24/87                            | 3/28/87       | 6/17/87         | 7/22/87          |
| 2. Ch. 22 -<br>SL <sub>2</sub>                          | 3/23/87             | 6/17/87             |                        | 7/27/87<br>7/28/87<br>7/29/87  |                                    |               |                 |                  |
| 3. Ch. 40, 41 -<br>Fluoride RCL                         | 3/23/87             | 6/17/87             |                        | 7/27/87<br>7/28/87<br>7/29/87  |                                    |               |                 |                  |
| 4. Ch. 43 -<br>Water Supply Grants                      | 3/23/87             | 6/17/87             |                        | 7-27-87<br>7-28-87<br>7-29-87  |                                    |               |                 |                  |
| 5. Ch. 70 - 20<br>Water Allocation<br>(Conservation)    | 3/23/87             | 6/17/87             |                        | 7-27-87<br>7-28-87<br>7-29-87  |                                    |               |                 |                  |
| 6. Ch. 66 -<br>Design Standards (12, 14,<br>16, 100)    | 2/17/87             | 3/11/87             | 4/13/87                | 4/21/87<br>4/22/87<br>4/23/87  | 5/26/87                            | 5/28/87       | 6/17/87         | 7/27/87          |
| 7. Ch. 67 -<br>Permits                                  | 11/12/86            | 12/22/86            | 1/22/87                | 12/22/86<br>12/23/86<br>1/2/87 | 3/23/87                            | 3/24/87       | 6/17/87         | 7/22/87          |
| 8. Ch. 100, 100 -<br>Landfill Groundwater<br>Monitoring | 3/4/87              | 3/23/87             | 6/16/87                | 6/23/87<br>6/24/87<br>6/27/87  |                                    |               |                 |                  |
| 9. Ch. 120 -<br>Underground Tank Monitoring             | 12/15/86            | 1/14/87             | 3/13/87<br>6/16/87     | 3/23/87<br>6/23/87<br>6/27/87  | 4/21/87                            | 4/21/87       | 5/28/87         | 6/24/87          |
| 10. Ch. 140 -<br>Solid Oil                              | 6/15/87             | 7/15/87             |                        |                                |                                    |               |                 |                  |

Prepared by

The following administrative penalties have been appealed:

| <u>NAME/LOCATION</u>                 | <u>AMOUNT</u> |
|--------------------------------------|---------------|
| *Finlan Landfill (Chickasaw County)  | \$1,000       |
| Beech/Kalston (Fort Dodge)           | 500           |
| Kala and Baga (Martelle)             | 1,000         |
| Wendi-Klapp, Inc. (Webster City)     | 1,000         |
| EW States Cement (Mason City)        | 1,000         |
| Hum and Truss (Davenport)            | 100           |
| Kon Turner (Fort Madison)            | 1,000         |
| Lakewood Sanitary District           | 1,000         |
| Scotty's Auction Service (Davenport) | 100           |
| Des Moines Metro SLF                 | 1,000         |
| Iowa City Regency HSP                | 1,000         |
| Warren County Care Facility          | 500           |
| Bianchi Mayret Lagoon (Des Moines)   | 600           |

The following administrative penalties were paid in May:

| <u>NAME/LOCATION</u>                | <u>AMOUNT</u> |
|-------------------------------------|---------------|
| *W & K Truckstop                    | 25            |
| Burge Rogers Bros. Excavation       | 600           |
| City of Glenora                     | 250           |
| ISP, Inc. (Columbus Junction)       | 1,500         |
| Page County Pig, Inc.               | 500           |
| Silvercrest Golf and Country club   | 50            |
| Burner's of Milford                 | 500           |
| Tim's Town Pump (Mitchell)          | 200           |
| Four Roads Inn (Fairbank)           | 50            |
| Yoder, Inc. (Stevens)               | 1,000         |
| Suburban Club (West Burlington)     | 440           |
| McDonald's, Ltd (Ft. Dodge)         | 224           |
| City of Graceland                   | 312           |
| City of Emmelle                     | 100           |
| City of Chariton                    | 500           |
| Sid's Gas and Grocery (Forest City) | 250           |
| Mary's Lakeside Tap (Davenport)     | 100           |

Black Grove Retreat (Ashley) paid its \$50 penalty in March.

\* Referred to the Attorney General  
 \*\* On Payment Schedule

**Department of Natural Resources  
SECTION OF SECTION SUMMARY OF 1987 ANNUAL BUDGET BILL**

| Reference Section 0011 | Code Reference | Lead Agency | Support Agency                             | PART ONE: GENERAL PROVISIONS |   | Amount    | Fund Source | Activity |         |
|------------------------|----------------|-------------|--|------------------------------|---|-----------|-------------|----------|---------|
|                        |                |             |  | Action                       | Notes   |           |             | Start    | End     |
| 200                    | 0000.1         |             |  | Title                        | - Groundwater Protection Act  |           |             |          |         |
| 200                    | 0000.2         |             |  | Definitions                  | - Groundwater, Department, Director, Contamination, Active Cleanup, Passive Cleanup   |           |             |          |         |
| 200                    | 0000.3         |             |  | Findings                     | - Groundwater is precious and vulnerable<br>- Man, human activities result in contamination<br>- Knowledge of health effects varies greatly<br>- Any synthetic organic is undesirable<br>- Prevention is paramount  |           |             |          |         |
| 200                    | 0000.4         |             |  | State Goal                   | - Nongradation  |           |             |          |         |
| 200                    | 0000.5         |             |  | State Policies               | - Prevent further contamination<br>- Contamination shall require appropriate action<br>- All have a right to unpolluted ground water<br>- All have a duty to prevent contamination<br>- Contamination shall result in clean-up using best technology or best management practices<br>- Standards may be of benefit but are not a substitute for prevention<br>- Assure public confidence and public awareness<br>- Education is necessary and should strive to establish a conservation ethic |           |             |          |         |
| 200                    | 0000.5011      |             |  | Rule Making                  | - Guidelines for determining clean-up   |           | 00A         |          | 7/01/89 |
| 200                    | 0000.6         |             |  | Legal Effects & Liability    | - Exempts co-producers of liability when handling chemicals properly  |           |             |          |         |
| 200                    | 0000.7         |             |  | Primary Admin Agency         | - DNR   |           |             |          |         |
| 200                    | 0000.8         |             |  | Office of Director           |   |           |             |          |         |
| 200                    | 0000.8011      |             | Soil Commissioners, DALS, DNR, U of I, DNR | Monitoring                   | - Comprehensive monitoring network (for five years)   | 0 560,000 | 00A         |          | X       |

**THIS COURT ORDERED THAT AN INTERIM RECEIPT BE ISSUED TO THE DEPARTMENT OF CORRECTIONS FOR THE PAYMENT OF THE FINE AND COSTS OF THIS CASE.**

**Department of Natural Resources  
SECTION OF SOLID WASTE MANAGEMENT AND LANDFILLS (Cont'd)**

| Reference Number | Code Reference                         | Lead Agency           | Support Agency | Action                        | Notes  | Amount | Fund Source | Activity |          |      |
|------------------|--|-----------------------|----------------|-------------------------------|--|--------|-------------|----------|----------|------|
|                  |  |                       |                |                               |  |        |             | Start    | End      | Appr |
| 006              | 0000-3300 2) 0000                      |                       |                | Administrative                | <ul style="list-style-type: none"> <li>- New solid waste levage fee \$1.50 in '88, increasing \$0.40/year until '92; thereafter \$3.80</li> <li>- City and county may charge additional fee</li> </ul>   |        | SWA         | 7/01/88  |          | X    |
| 007              | 0000-3300 4) 0000<br>0000-3300 5) 0000 |                       |                | Fees                          | <ul style="list-style-type: none"> <li>- Deposited to SWA</li> <li>- Beginning 7/1/88, fees paid quarterly</li> </ul>  |        | SWA         | 1/01/89  |          | X    |
| 008              | 0000-3300 7) 0000                      |                       |                | Fees                          | <ul style="list-style-type: none"> <li>- Exemptions to fee requirements</li> </ul>   |        |             |          | 1/01/89  |      |
| 009              | 0000-3300 8) 0000                      |                       |                | Reporting                     | <ul style="list-style-type: none"> <li>- Recommendation to General Assembly on fees</li> </ul>   |        |             |          | 7/01/92  |      |
| 010              | 0000-3300 2) 0000                      |                       | SWA            | Rule Making                   | <ul style="list-style-type: none"> <li>- Grants to private and public agencies for waste disposal</li> </ul>   |        | SWA         |          |          |      |
| 011              | 0000-3300 3) 0000                      |                       |                | Management Program            | <ul style="list-style-type: none"> <li>- Products and package disposal. Action triggered by complaint</li> </ul>   |        | SWA         |          |          |      |
| 012              | 0000-3300 2) 0000                      | D of General Services | SWA            | Rule Making<br>Administrative | <ul style="list-style-type: none"> <li>- Use of recycled products by state government</li> <li>- Purchase recycled paper when possible</li> <li>- SWA and DGS review procurement specifications</li> <li>- SWA will assist in locating supplies</li> <li>- Request for recycle content on all bids</li> <li>- All state agencies will compete</li> </ul> |        | SWA         |          |          |      |
| 013              | 0000-3300 2) 0000                      |                       |                | Appropriation                 | <ul style="list-style-type: none"> <li>- Existing levage fee distributed in the following manner</li> <li>- 64 for waste management authority</li> <li>- SWA for SWA to establish SWAC</li> <li>- Remainder to SWA to develop guidelines for monitoring landfills</li> </ul>   |        | SWA         |          | 12/31/87 |      |
|                  |  |                       |                |                               |  |        |             |          |          |      |
|                  |  |                       |                |                               |  |        |             |          |          |      |
|                  |  |                       |                |                               |  |        |             |          |          |      |
|                  |  |                       |                |                               |  |        |             |          |          |      |
|                  |  |                       |                |                               |  |        |             |          |          |      |

**Department of Natural Resources  
SECTION OF SOLID WASTE AND WASTE MANAGEMENT ADMINISTRATION**

| Bill Number | Code Reference | Local Agency | Action               | Notes   | Dollars    |                       | Starting Date | Ending Date | Annual |   |
|-------------|----------------|--------------|----------------------|---|------------|-----------------------|---------------|-------------|--------|---|
|             |                |              |                      |   | Authorized | Source                |               |             | Y      | N |
| 1           | 0000-070       | MSD          | Title                | - Waste Management Authority  |            |                       |               |             |        |   |
| 2           | 0000-080       |              | Purpose              | <ul style="list-style-type: none"> <li>- Considerable volume of waste is generated</li> <li>- Protection of health and culture requires proper and safe management of waste</li> <li>- Ensuring proper and safe management is duty of state</li> <li>- Obligation of state to provide proper and safe management of low-level radioactive waste</li> <li>- Encourage public participation</li> <li>- Purpose of act is to establish planning and management authority, authorize state to do these, authorize state to develop waste disposal facility</li> </ul> |            |                       |               |             |        |   |
| 3           |                |              | Policy               | <ul style="list-style-type: none"> <li>- Protection of health and environment</li> <li>- Adequate regulatory control</li> <li>- Appropriate site selection</li> <li>- orderly development</li> </ul>  |            |                       |               |             |        |   |
| 4           | 0000-090       |              | Definitions          | - Facility, Hazardous Waste, Low-Level Management of Waste, Person, Site, Solid Waste, State, Storage, Treatment, Disposal, Regulatory Agency, Waste Management Authority, Waste, Long-Term Monitoring and Maintenance  |            |                       |               |             | X      |   |
| 5           | 0000-095       |              | Authority            | - MSB   | 9100,000   | Solid Waste Act, 1964 |               |             | X      |   |
| 6           | 0000-098       |              | Purpose of Authority | -   |            |                       |               |             | X      |   |
| 7           | 0000-099(1)    | NYC          | Rules                | - To implement bill   |            |                       |               |             | X      |   |
| 8           | 0000-099(2)    | MSD          |                      | - Seal, revenue and exempt funding  |            |                       |               |             | X      |   |
| 9           | 0000-099(3)    | MSD          | Administrative       | - Waste management trust fund   |            |                       |               |             | X      |   |
| 10          | 0000-099(4)    | MSD          |                      | - Enter into contracts  |            |                       |               |             | X      |   |
| 11          | 0000-099(5)    | MSD          |                      | - Represent the state in matters related to waste management  |            |                       |               |             | X      |   |
| 12          | 0000-099(6)    | MSD          |                      | - Review, propose and recommend legislation   |            |                       |               |             | X      |   |
| 13          | 0000-099(7)    | MSD          |                      | - Act as a clearinghouse for information  |            |                       |               |             | X      |   |
| 14          | 0000-099(8)    | MSD          |                      | - Develop public information program  |            |                       |               |             | X      |   |
| 15          | 0000-099(9)    | MSD          | Reporting            | - To Governor and General Assembly on activities of authority   |            |                       |               |             | X      |   |

Supplemental part of MS 621

0000-099-0000



or capability to mandate that people put in secondary containment structures or double wall tanks.

In instances where there are previous releases, it is at the option of tank owners to choose to reinstall single wall tanks and use sniffer well devices, the requirement being, however, that they would have to perform necessary clean-up work in order to completely remove the released material from the soil structures. This would allow the newly installed sniffer wells to work appropriately and provide the reasonable possibility of finding a leak or release from the tank. The same would hold true for groundwater monitoring. The double wall tank is also an option that could be used if total clean-up was not technologically or economically possible for the tank owner.

Field personnel have clarified the Department's position with the regulated party in the two or three instances mentioned.

A lengthy discussion followed regarding acceptable clean-up levels, removal of contaminated soil, federal standards for clean-up, zero contamination level, background levels, and remedial action wells.

Mr. Stokes stated that the traditional basis for clean-up that has always been used by the Department is to the fullest extent that is reasonably practicable.

Mr. Ed Kistenschlager, Petroleum Marketers of Iowa, addressed the Commission and introduced Mr. Ron Niemann, a geologist from Eugene Hitchcock and Associates, who has been involved in the remedies of several of their leak situations with underground storage tanks.

Mr. Kistenschlager stated that their main concern is to ask the Commission to take the time to set some standards for clean-up. He stated that the real problem is the standard that has been set by Commission staff. He added that their request was not to beat the double wall tank scenario, but to seek the opportunity to have some public comment regarding how this relates to actual in-the-field experiences. He stated that they feel there can be a reasonable approach made to this problem whereby they can avoid complaints about somebody that has been required to put in a double wall tank when it was not necessary.

Discussion followed regarding EPA levels of 500 parts/million, monitoring of background levels, and other states' standards.

Mr. Niemann stated that a verbal communication from DNR staff set standards at 100 parts/million. Mr. Niemann stated that the policy documents on standards should go through normal rulemaking so industry would have a chance to comment.

Mr. Stokes clarified that general guidance, not policy, has been given to staff in regards to using a number for clean-up. He further stated that we could, by rule, establish a general benchmark number if the Commission desires to get into something like the EPA is considering.

Motion was made by Richard Timmerman to have staff research technical data to see if standards could be set, particularly in the area of background levels, and to determine what is an acceptable clean-up level. Seconded by Nancy Lee Siskind.

"Prevention of significant deterioration" is defined in Part C of the Clean Air Act.

"Prime farmland" means any area identified as such by the United States Department of Agriculture, Soil Conservation Service.

"Protected basins" means any portion of the drainage basin of protected water areas within two (2) miles of the water area. Protected water areas are those classified as such pursuant to Iowa Code chapter 108A, or high-quality waters, high-quality resource waters or Class "C" waters designated in Chapter 61 of the department's rules.

"Proximity to major generators" means within fifty (50) miles of the central point of generation based on the latest available RCRA biennial report on hazardous waste generation in Iowa.

"Seismic risk" means the relative geologic stability of the site based on the likelihood of structural damage due to seismic events. Seismic risk categories, as developed by the National Oceanographic and Atmospheric Administration, will be used to rate relative stability.

"Site" means the land area upon which a facility is, or is proposed to be, physically located, including but not limited to adjacent land use for utility systems such as repair, storage, processing, or other areas incident to the facility or operation.

"Siting authority" means the party with the specific authority to select sites for facilities.

"Transportation routes" means any public all-weather hard-surfaced road with adequate capacity to carry the type and volume of commercial vehicular traffic serving the facility for the entire year with no embargoes, special permits or other restrictions on roads, overpasses or bridges that would prevent transportation to the facility.

"Utilities and services" means electricity, gas, water and sewer utilities, and police, fire protection, and emergency medical services.

"Wetlands" means any area inundated by surface or groundwater with a frequency sufficient to support, under normal circumstances, a prevalence of vegetation or wildlife requiring saturated or seasonally saturated soil conditions for growth or reproduction. These areas include swamps, marshes, bogs, sloughs, wet meadows, mudflats, sandflats, ponds, lakes, and similar areas.

567--152.3(455B) Siting criteria. The siting authority shall use the following criteria in selecting sites for facilities.

151.3(1) Exclusionary criteria. No facility shall be sited within:

- a. An area of seismic risk category of four (4) or greater;
- b. A one hundred (100)-year floodplain;
- c. A dam hazard area;
- d. An area with less than one hundred (100) feet of aquitard between the base of operation and the subjacent aquifer;
- e. One (1) mile of a geologic hazard structure;
- f. One (1) mile of a karst area;
- g. One (1) mile of an area of past or present surface or underground mining activity;
- h. One (1) mile of wetland;
- i. Any protected basin, or
- j. Ten (10) miles of any nuclear power plant.

152.3(2) Quantitative criteria. The quantitative criteria and corresponding values which are to be applied are in Table 1 as follows:

FROM: Mike Murphy

RE: Enforcement Report Update

The following new enforcement actions were taken last month:

| Name, Location and Field Office Number   | Program                         | Alleged Violation                       | Action                         | Date   |
|--|---------------------------------|---|--------------------------------|--------|
| Country Corner Cafe,<br>Pacific Junction (1)                                     | Drinking Water                  | Failure to monitor bacteria & nitrate   | Order/Penalty                  | 6/3/8  |
| James T. MacDade, JTM Industries, Inc. and Delbert D. Leamer Pleasant Valley (6) | Solid Waste                     | Open dumping                            | Order/Penalty                  | 6/9/8  |
| Reezy's DMT Ballroom Rolfe (3)   | Drinking Water                  | Failure to monitor bacteria             | Order/Penalty                  | 6/16/8 |
| Dows Golf Course Dows (2)  | Drinking Water                  | Failure to monitor bacteria             | Order/Penalty                  | 6/16/8 |
| Terra International Sergeant Bluff (3)   | Wastewater                      | Effluent Violations                     | Order                          | 6/18/8 |
| Golden Slipper Dunlap (4)  | Drinking Water                  | Failure to monitor bacteria.            | Order/Penalty                  | 6/18/8 |
| Glen Mark Subdivision 2 Addition Burlington (6)                                  | Drinking Water                  | Monitoring & reporting bacteria         | Order/Penalty                  | 6/18/8 |
| Gleen's Water Supply Blairsburg (2)  | Drinking Water                  | Failure to monitor nitrate              | Order/Penalty                  | 6/18/8 |
| John A. McFedries Davenport (6)  | Air Quality                     | Open burning                            | Order/Penalty                  | 6/18/8 |
| Donald R. Wilson and Larry L. Pingel Fort Dodge (1)                              | Solid Waste                     | Open dumping                            | Order/Penalty                  | 6/18/8 |
| City of Shenandoah (4)   | Air Quality                     | Open burning                            | Order/Penalty                  | 6/18/8 |
| City of Leland (2)   | Air Quality                     | Open burning                            | Order                          | 6/18/8 |
| Casper Automotive Minburn (5)  | Wastewater                      | Prohibited Discharge                    | Order                          | 6/18/8 |
| Trouess Co., Inc. Carroll (4)  | Hazardous Conditions Wastewater | Remedial Action<br>Prohibited Discharge | Order/Penalty<br>Order/Penalty | 6/18/8 |

handle the situation when there is not enough monies to fund all projects. He stated that the Commission could choose the option of changing project eligibility.

Keith Uhl stated that he is concerned with small cities around the state being promised five percent match money they will never see.

Discussion followed regarding segmenting projects, by-passing cities when funds are low, and federal grants.

Mr. Stokes stated that staff will prepare any scenario the Commission may want if they will outline their desires.

Keith Uhl suggested the following scenarios: (1) A split be made only on the last project; where five percent match money runs out, then give that project money the following year which will be their final grant. (2) Issue the grant money if they are on the fundable list and do not be concerned with basing it on their receipt of federal funds.

Mr. Stokes stated that the staff will prepare proposals to address each of those scenarios.

#### MAXIMUM CONTAMINANT LEVELS IN USED OIL -- PCB DETECTION LIMITS -- CHAPTER 143

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

455B.412 of the Iowa Code requires the Commission to establish maximum levels of contaminants in oil. One of the contaminants specified in 455B.412 is polychlorinated biphenyl (PCB).

When the rules were developed, it was the intent of the department to allow no detectable amount of PCB in recycled or used oil used as a road oil, dust suppressant or for weed control. When the rules were developed, (Chapter 143), a detectable limit of 0.001 mg/l was determined to be the applicable detection limit.

Since the rules became effective, the department has learned that the detection limit for PCB in an oily-type waste is not 0.001 mg/l but approximately 3 mg/l using standard methods and reasonable reliability. The 0.001 mg/l detection level would be attainable for analysis of a drinking water-type liquid only. Rule 143.6(455B) is modified by changing the maximum contaminant level for PCB to be 3 mg/l.

#### **ENVIRONMENTAL PROTECTION COMMISSION Notice of Intended Action**

455B.412 of the Iowa Code requires the Commission to establish maximum levels of contaminants in oil. One of the contaminants specified in 455B.412 is polychlorinated biphenyl (PCB).

When the rules were developed, it was the intent of the department to allow no detectable amount of PCB in recycled or used oil used as a road oil, dust suppressant or for weed control. When the rules were developed, (Chapter 143),

### CONTRACT REPORT

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following report of the Environmental Protection Division contract activities.

| <u>Title and Number</u>                            | <u>Contractor</u>                           | <u>Amount</u> | <u>Period</u>   |
|--|---|---------------|-----------------|
| U.S. Geological Survey<br>Water Resources Division | U.S. Dept. of Interior<br>Geological Survey | \$3,600.00    | 10/1/86-9/30/87 |

### Comments

To cover publication and associated costs of the report "Method For Estimating the Magnitude and Frequency of Floods at Ungaged Sites on Unregulated Rural Streams in Iowa."

### APPROVAL OF UWL CONTRACT FOR SAMPLE COLLECTION AND ANALYTICAL WORK

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

The Department requests approval to enter into a contract with the University of Iowa Hygienic Laboratory for sample collection and analytical work associated with the Department's pretreatment program. The contract will run from the date of execution (approximately August 1, 1987) until September 30, 1988 and will be funded with Wastewater Compliance 104(b)(3) monies.

Specifically, the \$50,000 contract will require that UWL analyze samples of influent, effluent and sludge for priority pollutants at each of the 19 Publicly Owned Treatment Works (POTWs) in Iowa with an approved pretreatment program. Sample results will be used by the Department in conjunction with the POTWs to determine if additional controls are needed to prevent pass-through of pollutants, interference with treatment processes or to protect sludge disposal options.

- Discussion followed.

Motion was made by Keith Dahl to approve a contract with the University of Iowa Hygienic Laboratory for sample collection and analytical work at a cost of \$50,000. Seconded by Charlotte Mohr. Motion carried unanimously.

### APPROVAL TO AMEND FY87 UWL CONTRACT FOR SAMPLE ANALYSIS SERVICES

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

The Department requests approval to amend the FY87 University of Iowa Hygienic Laboratory contract to provide for \$78,600 worth of sample analysis services. The additional funds will be used primarily in supporting increased analyses of organics, particularly commonly used herbicides, in the groundwater monitoring program. This will provide needed information on the extent of groundwater

**Other DNR Activities  
Related to 1987 Groundwater Bill  
Coordination and Information Division**

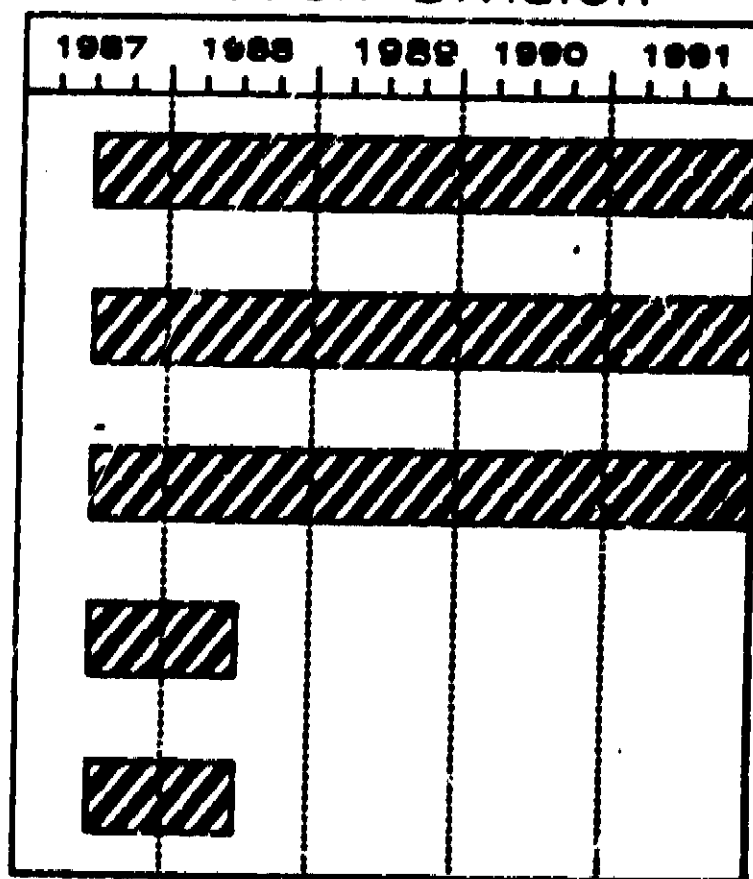
**455B.263 Fund Raising**

**108.5 Data Systems Mgt**

**108.9 Public Information**

**108.10 7th/8th Grade Curic.**

**111.2b Alt to ROW Spraying**



employee who works adjacent to the Pacific Junction site, learned that Hitchcock Scrap Yard, Inc. had worked in the area in the previous month or so and open burning occurred during that time.

Mr. Clark added that the Department is considering separate enforcement actions against other responsible parties. This referral is against Burlington Northern Railroad for allowing open burning of combustible materials on their property and for violating a previous court injunction.

Discussion took place regarding who is responsible for the violation.

Randy Horstmann, representing Burlington Northern Railroad, addressed the Commission stating that he was involved with Burlington Northern back in 1984 and 1985 and that Burlington Northern fully cooperated with the Attorney General in that investigation and resulting lawsuit. Mr. Horstmann added that his next involvement pertained to the allegation of open burning of railroad cars in March of 1986. He stated that they were contacted by the Attorney General's Office and again fully cooperated with them. Mr. Horstmann stated that that investigation, to his knowledge insofar as pertaining to Burlington Northern, died a natural death.

Mr. Horstmann stated that it is a practice of Burlington Northern on occasion, by contract, to sell old railway cars to salvage operations. At the same time, they will enter into a track lease with the salvage operation for a side spur, rather than a part of the main track operation. The only purpose is to allow the salvage operation to dismantle the railroad cars and obtain whatever usable scrap metal is available, and to then have the remainder hauled away to a proper disposal site.

Mr. Horstmann stated that the next contact from the Attorney General's Office was in April or May of 1987 indicating there was some allegation of another incident of open burning of a railroad car near Pacific Junction on March 16, 1987. He then conducted an investigation with Burlington Northern and reiterated that Burlington Northern does not have any personnel in the Pacific Junction area. He added that Burlington Northern had a sales contract, within the last year, with Hitchcock Scrap Yard for the sale of 25 to 30 railroad cars. Burlington Northern was unable to locate the agreement for the track lease site in that area during this time period. Their inability to locate the contract could be due to a move of Burlington Northern's headquarters from Minneapolis to Fort Worth.

Mr. Horstmann stated that his attendance is mainly for information purposes and that he does not believe that Burlington Northern is responsible for the open burning of railroad cars. He further stated that Burlington Northern agreements and contracts with scrap metal companies require that they abide by all federal, state and local regulations which might cause release of toxic fumes.

Clark Yeager asked if Burlington Northern had a sales contract with Onark Demolition. Mr. Horstmann replied that they did not and that he had never heard of them until yesterday.

Richard Timmerman stated that the facts support that a violation has occurred, but we do not know exactly who is responsible.

I N D E X  
Environmental Protection Commission  
Meeting in Des Moines, Iowa  
Wallace State Office Building  
June 15, 1987

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| MEMBERS PRESENT . . . . .   | 1           |
| MEMBERS ABSENT . . . . .  | 1           |
| ADOPTION OF AGENDA . . . . .  | 1           |
| ADOPTION OF MINUTES . . . . .   | 1           |
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| STATUS REPORT -- APPROPRIATIONS FY-88 . . . . .   | 2           |
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| PROPOSED AMENDMENT OF THE RULES CONCERNING USE<br>OF RECYCLED OIL (CHAPTER 143) . . . . . | 10          |
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| REFERRALS TO THE ATTORNEY GENERAL . . . . .   | 10          |
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| ADDRESS ITEMS FOR NEXT MEETING . . . . .  | 30          |
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# REPORTS OF HAZARDOUS CONDITIONS

During the months of May 1, 1967 through May 31, 1967, reports of 74 hazardous conditions were forwarded to the Central Office. The incidents are highlighted, followed by a general summary and the number per field office.

| Date Reported and Office | Description: Material, Amount, Date of Incident, Owner, Location, Impact  | Responsible Party  | Response and Corrective Actions  |
|--------------------------|---|--|--|
| 5/18/67<br>FALL RIVER    | A 750-gallon tank wagon overturned near Haverhill, Mass on May 2, 1967 when the front axle broke, and 500 gallons of 18-34-0 fertilizer spilled on the ground. The material pooled on the surface, and a small amount entered a surface tile intake that drains to a gravel pit. The fertilizer apparently caused an algae bloom. | Thermax Company<br>R.F.D. 62<br>Haverhill, Mass<br>00000 | About 300 gallons of the material were pumped up. Contaminated soils were scraped up and removed, and the area was re-graded with fresh gravel. The responsible party was advised to re-locate the working area drainage tile so that it does not discharge to the gravel pit. |
| 5/24/67<br>CHICAGO       | A trailer with a bulk tank tipped over after hitting a pot hole about 1 1/2 miles northwest of Naperville, Ill on May 6, 1967. About 1,000 gallons of 50% nitrogen fertilizer were spilled.   | Jeff Springer<br>R.R., Naperville                        | Contaminated soil was scraped up and sealed in a nearby farm field. About 500 gallons of free product was previously recovered with a hose/vacuum.   |

Numbers in Parentheses Represent Reports For The Same Period In Fiscal Year 1966

| Month | Total # of Incidents Reported | Incidents Type    |               |                                | Risk                 |           |                  |             |       |       |
|-------|-------------------------------|-------------------|---------------|--------------------------------|----------------------|-----------|------------------|-------------|-------|-------|
|       |                               | Petroleum Product | Agr. Chemical | Other Chemicals and Substances | Handling and Storage | Pipelines | Highway Incident | RR Incident | Fire  | Other |
| Oct   | 70                            | 45                | 0             | 24                             | 25                   | 0         | 10               | 2           | 0     | 4     |
| Nov   | 24                            | 12                | 2             | 9                              | 17                   | 0         | 5                | 1           | 0     | 1     |
| Dec   | 45                            | 24                | 1             | 4                              | 24                   | 1         | 10               | 1           | 0     | 2     |
| Jan   | 40                            | 22                | 5             | 13                             | 27                   | 0         | 9                | 0           | 1     | 1     |
| Feb   | 41                            | 20                | 1             | 13                             | 20                   | 1         | 5                | 1           | 2     | 2     |
| Mar   | 55                            | 26                | 5             | 13                             | 27                   | 0         | 12               | 4           | 1     | 1     |
| Apr   | 70                            | 22                | 20            | 22                             | 21                   | 2         | 10               | 2           | 2     | 2     |
| May   | 74 (60)                       | 24 (20)<br>057-12 | 20 (15)       | 22 (15)                        | 29 (22)<br>057-12    | 0 (1)     | 24 (23)          | 2 (2)       | 4 (2) | 2 (0) |

Total # of Incidents For

May 1967

0 5 7 4 2 0 0 2 4 2 0

Department of Natural Resources  
Environmental Protection Commission  
Contested Cases  
June 1, 1987

| DATE RECEIVED       | NAME OF CASE                | ACTION APPEALED                                 | PREPARED | ASSIGNED TO | STATUS  |
|---------------------|-----------------------------|---|----------|-------------|---|
| 10-26-85<br>1-28-86 | Frit Industries             | Administrative Order<br>Nebraska State Registry | NS       | Landis      | Satisfied.                                    |
| 9-14-86             | Behrend, et. al.            | Administrative Order                            | NS       | Landis      | Proposed decision 11-4-86; appealed.          |
| 10-17-85            | City of Burlington          | Administrative Order                            | NS       | Harmon      | Hearing continued.                            |
| 1-23-86             | Columbia Bell Service       | Administrative Order                            | NS       | Landis      | Hearing continued.                            |
| 9-27-85             | Busch and Relations.        | Administrative Order                            | NS       | Landis      | Supervisor closes Removal completed.          |
| 6-12-85             | ADR - Clinton               | Administrative Order                            | ADR      | Landis      | Hearing continued.                            |
| 7-30-85             | HP - Columbus Junction      | APCS Permit                                     | NS       | Harmon      | Hearing held 1-14-87; Second hearing 9-27-87. |
| 9-10-85             | Farmer's Rental Corp        | Administrative Order                            | NS/NS    | Landis      | Complaint Order; satisfied                    |
| 9-10-85             | Safe and Safe               | Administrative Order                            | NS       | Landis      | Registering before filing. Removal started.   |
| 10/27/85            | Union County/Wittstock      | Permit Issuance                                 | UP       | Clark       | Reviewed by Superior Court.                   |
| 10/28/85            | Leland Municipal Utilities  | Administrative Order                            | NS       | Harmon      | Registering before setting hearing.           |
| 10/29/85            | Hendrickson Company, Inc.   | Administrative Order                            | NS/NS    | Landis      | Hearing continued.                            |
| 11/14/85            | Safe Guard                  | Permit Condition                                | UP -     | Clark       | Hearing held 4-14-87.                         |
| 12-15-85            | City of Madison             | Administrative Order                            | NS       | Harmon      | Hearing continued.                            |
| 12/11/85            | Elsie Rosen                 | Permit Condition                                | UP       | Clark       | Hearing continued.                            |
| 12/24/85            | Francis Haderlin            | Administrative Order                            | UP       | Clark       | Hearing continued.                            |
| 2/ /87              | Aspro, Inc.                 | Administrative Order                            | UP       | Landis      | Hearing continued.                            |
| 2/10/87             | City of Safford             | Administrative Order                            | NS       | Harmon      | Satisfied.                                    |
| 3/23/87             | Turner, Wilford and Kenneth | Administrative Order                            | NS       | Landis      | Satisfied.                                    |
| 3/10/87             | Leland Sanitary District    | Administrative Order                            | NS       | Harmon      | Hearing set for 5-25-87.                      |
| 3/16/87             | Boers and Company           | Administrative Order                            | NS       | Harmon      | Registering before filing.                    |
| 3/19/87             | Rover/Brown/Hagel           | Administrative Order                            | UP       | Clark       | Hearing set for 5-25-87.                      |
| 3/19/87             | City of St. Placens         | Administrative Order                            | NS       | Harmon      | Registering before filing.                    |
| 3/23/87             | City of Long Grove          | Design Order                                    | NS       | Harmon      | Hearing set for 7-19-87.                      |
| 3/23/87             | Truss and Rasm              | Administrative Order                            | NS       | Harmon      | Registering before filing.                    |
| 4/28/87             | Barry's Auction Service     | Administrative Order                            | NS       | Harmon      | Registering before filing.                    |
| 4/14/87             | Chicago Control Co          | Administrative Order                            | NS       | Landis      | Registering before filing.                    |
| 4/15/87             | Staplebury Inc              | Administrative Order                            | NS       | Harmon      | Satisfied.                                    |
| 5/25/87             | Gas Service North S.D.      | Administrative Order                            | NS       | Harmon      | Hearing set for 7-19-87.                      |
| 5-18-87             | Marion County Care Facility | Administrative Order                            | NS       | Harmon      | Registering before filing.                    |
| 5-27-87             | Long City Registry and      | Administrative Order                            | NS       | Harmon      | See Sup.                                      |
| 5-28-87             | Stewart-Snyder Logans       | Administrative Order                            | NS       | Harmon      | See Sup.                                      |

**Department of Natural Resources  
SECTION OF NATURE SERVICE OF 1987 GRANT MONITORING**

| Code Reference | Lead Agency | Support Agency | Action                    | Notes   | Amount  | Fund Source | Activity |         |
|----------------|-------------|----------------|---------------------------|---|---|-------------|----------|---------|
|                |             |                |                           |   |   |             | Start    | End     |
| 0001.012)      | 000         | 000, 000       | Reporting                 | - Detected contaminants to EPA and DALS (0001.01), Annual Report                    |   | 000         |          |         |
| 0001.013)      | 000         | 000            | Reporting                 | - Unregulated contaminants. Request to EPA for health advisory or MCL.              |   | 000         |          |         |
| 0001.014)      | 000         |                | Mapping                   | - Ground Water Vulnerability Mapping made available to local planners               | \$ 400,000 (for four years)                                 | 000         |          | 7/00/92 |
| 0001.015)      | 000         |                | Develop Program           | - System(s) of collection, evaluation and dissemination of data                     |   | 000         |          |         |
| 0001.016)      | 000         |                | Data System               | - Natural Resource Geographic Information System (Accessible to the Public)         | \$ 200,000 (for three years)                                | 000         |          |         |
| 0001.017)      | 000         |                | Rule Making               | - Criteria for evaluating programs  |   | 000         |          | 7/00/90 |
| 0001.018)      | 000         |                | Investigate               | - and enforce as necessary (abandoned sites)<br>- contamination/recharge assessment | \$1,300,000 (for five years)<br>\$ 800,000 (for five years) | 000<br>000  |          |         |
| 0001.019)      | 000         |                | Information Dissemination | - To the public, to the greatest extent possible                                    |   | 000         |          |         |
| 0001.020)      | 000         | 000, 000       | Education                 | - Environmental programs, 7th and 8th grades (256.11(4))                            | \$ 200,000 (for five years)                                 | 000         |          |         |
| 0001.9         |             |                | Notice of Commission      |   |   |             |          |         |
| 0001.021)      | 000         | 000            | Adoption of Rules         | - The Commission shall adopt rules to implement chapter                             |   |             |          |         |
| 0001.022)      | 000         |                | Reporting                 | - Hearings in each district. Report to Leg. on role of standards                    |   |             |          | 1/00/99 |
| 0001.20        |             |                | Local Authority           | - All agencies shall cooperate with DNR and are encouraged to protect ground water  |   |             |          |         |
| 0001.21        |             |                | Appropriation             | - Ground Water Protection Fund (see attached sheets)                                |   |             |          |         |

**Department of Natural Resources  
SECTION OF SECTION SUMMARY OF 1987 GRANT UNDER DRII**

| Reference<br>Section<br>Bill | Code<br>Reference | Lead Agency                 | Support Agency   | Action                    | Notes   | Amount                       | Fund<br>Source | Activity |         |
|------------------------------|-------------------|-----------------------------|------------------|---------------------------|---|------------------------------|----------------|----------|---------|
|                              |                   |                             |                  |                           |   |                              |                | Start    | End     |
| 201                          | 209.21            | 209.21                      | 209.21           | Land Acquisition          | - Move land into state ownership or easements for AM or sidetube areas  |                              | AM             | 7/01/88  |         |
| 202                          | 209.22            | 209.22                      | 209.22           | Sidetube Clean-up         | - Project to study tech. for sidetube clean-up in NE Iona   | \$ 200,000 (for five years)  | AM             |          |         |
| 203                          | 209.23(1)         | 209.23                      | 209.23, EPA      | Registration              | - AM registration   |                              | AM             |          | 1/01/90 |
|                              | 209.23(2)         | 209.23                      | 209.23           | Administrative            | - Plans for alternatives to AM<br>- Financial assistance if well is registered  | \$2,500,000 (for five years) | AM             |          | 7/01/91 |
|                              | 209.23(3)         | 209.23                      | 209.23, 209.23   | Construction              | - Alternatives to AM/sidetube   |                              | AM             | 7/01/97  |         |
|                              | 209.23(4)         | 209.23                      |                  | Program                   | - Financial assistance program to employ reduced chemical practices   |                              | AM             |          |         |
|                              | 209.23(5)         | 209.23                      |                  | Coordination              | - Secretary may appoint inter-agency committee to coordinate agency activities  |                              |                |          |         |
| 204                          | 209.24(6)         | 209.23                      |                  | Reporting                 | - Demonstration projects in NE Iona or AM. Establish priority system for elimination of contaminants  | \$ 200,000 (for five years)  | AM             |          | 7/01/99 |
|                              | 209.24(7)         | 209.23                      |                  | Program                   | - Eliminate contaminants from AMs by 1995   |                              | AM             | 7/01/90  | 7/01/95 |
|                              | 209.24(8)         | County Board of Supervisors |                  | Repairs                   | - Emergency repairs to AMs if the well is registered. AMs are in use and the Board approves. Approval does mean closure is avoided.             |                              |                |          |         |
| 205                          | 209.25            | 209.25                      | Local Government | Permitting<br>Side Mining | - New well construction<br>- New well permitting and well registration<br>These activities may be delegated to the County Board of Supervisors  | \$ 67,500                    | AM             | 7/01/97  |         |
|                              | 209.26            | 209.26                      | Local Government | Side Mining               | - Schedule for closure of abandoned wells<br>- Closure of abandoned wells<br>- Financial incentives for closure<br>- Penalty of up to \$100/day | \$1,950,000 (for five years) | AM             |          |         |

**Department of Natural Resources  
SECTION ON SOLID WASTE OF 1987 HOUSE BILL 2011**

| Reference Section Bill | Code Reference | Lead Agency                     | Support Agency  | PART FOUR: HOUSEHOLD HAZARDOUS WASTE |   | Amount | Funding Source | Activity |     |
|------------------------|----------------|---------------------------------|---|--------------------------------------|---|--------|----------------|----------|-----|
|                        |                |                                 |   | Action                               | Notes   |        |                | Start    | End |
| 2011                   | 4007.2         |                                 |   | Definitions                          | - Paperwork, Commission, Manufacturer, Manufacturer or Distributor, Retailer, Display Area Label, Residential, Household Hazardous Material   |        |                |          |     |
| 2012                   | 4007.2         |                                 |   | Policy                               | - Education, proper use and disposal of household hazardous waste to protect health and environment   |        |                |          |     |
| 2013                   | 4007.3         |                                 |   | Labeling                             | - Requires a display area label<br>- Requires the developer and distributor to retailers<br>- Violations are simple misdemeanor   |        | 2004           |          |     |
| 2014                   | 4007.4         |                                 |   | Booklets                             | - Consumer information booklets   |        | 2004           |          |     |
| 2015                   | 4007.5(1)      |                                 |   | Rule Making                          | - To establish uniform labels to be supplied to retailers   |        | 2004           |          |     |
| 2016                   | 4007.5(2)      |                                 |   | Rule Making                          | - Booklets and bulletins information for consumers - distribution of booklets   |        | 2004           |          |     |
| 2017                   | 4007.6         |                                 | Manufacturers, distributors, retailers, wholesalers, etc. | Rules of Disposal                    | - Designate household hazardous waste products<br>- Enforce provision of chapter<br>- Identify 20 products of greatest concern<br>- Submit recommendations to General Assembly on education needs, proper disposal, dissemination of information, special labeling and proposed legislative action  |        | 2004           |          |     |
| 2018                   | 4007.7         | Department of Natural Resources |   | Permitting                           | - Issues permits for sale of household hazardous material<br>- \$10 based on gross retail sales of 500,000 or less<br>- \$25 based on gross retail sales of 500,000 to 1,000,000<br>- \$100 based on gross retail sales of over 1,000,000<br>- Permit-to-purchase fees may obtain a single permit on behalf of authorized dealers for lot 95 million in sales and \$100 for each additional 95 million in sales |        | 2004           |          | 2   |



A photograph of the new department logo was shown to the Commission. These will be used on uniforms worn by our personnel and on our state vehicles.

Discussion followed regarding state employee identification cards.

AGENDA ITEMS FOR NEXT MEETING

1. Regulation D - Federal Solid Waste Regulations
2. Update on Low Level Radioactive Waste Compact
3. EPA & U.S.T Regulations
4. Update on Concerns with IBP in Manchester
5. Appointment of Commission representatives to work with staff on formulating the budget for FY 89.

NEXT MEETING DATES

July 20-21, 1987  
August 17-18, 1987  
September 21-22, 1987

ADJOURNMENT

Motion was made by Catherine Dunn to adjourn the meeting. Seconded by Donna Hammitt. Motion carried unanimously.

With no further business to come before the Environmental Protection Commission, Chairman Schlutz adjourned the meeting at 5:45 p.m. on Monday, June 15, 1987.

\_\_\_\_\_  
Larry J. Wilson, Director

\_\_\_\_\_  
Charlotte Mohr, Secretary

(EPC/6-87)

FILE  
6-1  
12

HAZARDOUS WASTE MANAGEMENT FACILITY  
SITING CRITERIA  
AND METHODOLOGY

October, 1986

Iowa Department of Natural Resources



This prediction has proved remarkably accurate. Of the 73 commercial hazardous waste landfills which were operating in 1980, only 26 are open today. Iowa's only commercial hazardous waste management facility, Landfill Services, Inc. in Black Hawk County, quit accepting hazardous wastes in July, 1985. Today, Iowa has no commercial hazardous waste management facilities, so Iowa generators must ship wastes to out of state facilities -- with no assurance that they can continue to do so in the future.

In addition to closing landfills, several states have placed restrictions on wastes that may be disposed of in landfills. For example, after 1987 the Illinois EPA will decide on a case-by-case basis whether specific wastes can be accepted. Though these restrictions are not specifically designed to limit out of state hazardous waste, they could be used in this way. The Illinois restriction is of particular interest because 70% of the hazardous waste from Iowa that was sent out of state for land disposal in 1983 went to Illinois.

This combination of landfills closing and out of state wastes being restricted will leave Iowa generators with no place to dispose of wastes in the near future. Therefore, the Department recommends that an above-ground facility be built for the long-term storage of hazardous wastes.

### 3. Facility Description

The Department's Hazardous Waste Management Plan calls for an above-ground facility for the long-term storage of hazardous wastes. The plan does not include a design for this facility nor have its details been finalized.

Above-ground facilities represent a new technology in waste disposal. Because of this, no above-ground facilities for the long-term storage of hazardous wastes have yet been built in the United States. However, the general concepts for such a facility are as follows:

- a. The active portion of the facility would occupy at least 55 acres with additional land serving as a buffer from the surrounding area. Access to the site would be controlled.
- b. The facility would be above-ground and constructed of earth, concrete, steel or a combination thereof. The base layer (above-ground level) would include double liners and a leachate collection system.
- c. On-site inspections and monitoring would be conducted as appropriate. Ground water monitoring would also be conducted around the facility.
- d. A receiving station near the entrance would weigh incoming shipments and collect samples of the wastes. Waste samples would be analyzed in the laboratory to assure proper identification.
- e. A spill containment system would surround the unloading and storage area. Wastes collected by the containment system would be processed as appropriate.

TABLE 1 - INFORMAL ADVISORY GROUP

Federal Emergency Management Agency  
Iowa Association of Business and Industry  
Iowa Audubon Council  
Iowa Conservation Commission  
Iowa Department of Agriculture  
Iowa Department of Public Safety, State Fire Marshal  
Iowa Department of Soil Conservation  
Iowa Department of Transportation  
Iowa Development Commission  
Iowa Energy Policy Council  
Iowa Environmental Coalition  
Iowa Farm Bureau  
Iowa Geological Survey  
Iowa Groundwater Association  
Iowa Health Department  
Iowa Natural Heritage Foundation  
Iowa State Association of Counties  
Iowa State Historical Department  
Iowa State University, Water Resources Research Institute  
Izaak Walton League  
Joint Planning Legislative Committee  
League of Iowa Municipalities  
League of Women Voters of Iowa  
The Nature Conservancy  
Office of Disaster Services  
Office for Planning and Programming  
Office of the State Archaeologist  
Sierra Club, Iowa Chapter  
U.S. Army Corps of Engineers  
U.S. Environmental Protection Agency  
U.S. Fish and Wildlife Service  
U.S. Geological Survey  
U.S. Soil Conservation Service  
University Hygienic Laboratory  
University of Iowa, Department of Preventative Medicine

ploration conducted may present avenues through which contaminants could be transported from surface to ground water. Contaminants could enter ground water through boreholes, wells, tunnels or areas of structural instability due to mining.

To prevent potential contamination of ground water and therefore protect public health, a site shall not be located within 1 mile of areas of past underground or surface mining, major exploration/production drilling or mineral recovery.

Information about mining activity is available from DNR.

#### 5. Flood Plains

This criterion pertains to the potential for contamination by means of flooding. It is designed to prohibit siting a facility in a 100-year flood plain, thereby reducing the possibility that flooding would ever occur at the site. Flooding could adversely affect the facility by:

- a. interfering with site operation
- b. damaging equipment and structures
- c. accelerating transport of waste by leaching
- d. transporting waste material off-site by flood action

In developing this criterion, some consideration was given to allowing a site in a 100-year flood plain provided that flood control structures (such as dikes, levees, etc.) were designed to protect the site. This consideration was rejected because the facility will be designed and constructed to safely store wastes for hundreds of years. Limited maintenance will be required to maintain the integrity of the site. However, major maintenance would be required for flood control structures. There is no way to guarantee that flood control structures would be properly maintained over the life of the facility. By prohibiting siting in a 100-year flood plain, protecting a facility from flooding could be guaranteed without reliance on human maintenance.

Information about flood plain locations is available from the United States Geological Survey (USGS).

#### 6. Dam Hazard Areas

This criterion also pertains to flooding. Use of this criterion would prohibit siting a facility in a dam hazard area, thus eliminating the possibility of flooding (and resultant water contamination) due to failure of an upstream dam or water impoundment. (The adverse affects of flooding are discussed in Criterion Number 5: Flood Plains.)

As discussed in Criterion Number 5, a facility should be designed and constructed to safely contain hazardous wastes for hundreds of years. There is no way to guarantee the integrity of dams over the long term. By prohibiting siting in dam hazard areas, a facility could be protected from flooding due to dam failure.

The information about dam hazard areas is available from DNR.

Areas of the country where air contamination exceed air quality standards are designated as nonattainment areas. New sources of air pollutants which locate in nonattainment areas may be subject to stringent permit requirements. The purpose of this criterion is to reduce potential problems involved in getting permits for an incinerator. Therefore, a higher priority should be given to areas where increased emissions would have little impact on air quality.

Sites located in areas where no significant impact on nonattainment areas is predicted should be given a favorable rating for this criterion. Sites located in areas where minimal significant impact on nonattainment areas is predicted should be rated potentially favorable.

Information about air quality is available from DNR.

#### 19. Prevention of Significant Deterioration (PSD)

As stated in Criterion Number 17, the land facility would not be a source of significant amounts of air pollution. The purpose of this criterion is to assure that PSD-allowable increments would be available if an incinerator were constructed at the facility in the future, to facilitate obtaining permits for a facility should an incinerator be installed.

Therefore, sites with sufficient air quality data available and an indication that sufficient increments would be available should be given favorable ratings for this criterion. Sites with minimal air quality data but believed to have sufficient increments available should be rated as potentially favorable.

Information about air quality is available from DNR.

#### 20. Transportation Routes

The purpose of this criterion is to assure proximity of the facility to transportation routes.

For the purposes of this criterion, a transportation route is a public all-weather hard-surfaced road with adequate capacity to carry the type and volume of commercial vehicular traffic necessary to serve the facility year around. There should be no embargoes, special permits or other restrictions on roads, overpasses or bridges that would prevent transportation to the facility.

Sites within 5 miles of a transportation route, 10 miles of rail service, and within 50 miles of an interstate highway should receive a favorable rating for this criterion. Sites beyond the 5/10/50 mile limit should be given a potentially favorable rating, provided sufficient road construction is proposed.

Information about transportation routes is available from the Iowa Department of Transportation (DOT).

Not all criteria in Stage II are designed to protect public health or the environment. For example, the criterion on cultural areas is designed to protect areas of historical interest and to comply with regulations on historical protection.

Sites remaining after Stage II screening would be ranked by the rating values assigned to these quantitative criteria. The highest ranked favorable sites would then be examined in Stage III.

a. Approach and Methodology

For each category, site suitability would be rated according to a three-level rating system with relative values assigned to factors that would restrict or favor siting a facility. The three proposed rating levels are:

- 1) Favorable. This level meets the criterion so a site could be expected to avoid potential damage to public health and the environment, to reduce costs to the state, and to comply with all regulations and conditions for siting a facility. This level is assigned a value of 5 points.
- 2) Potentially Favorable. This level would minimally meet the criterion. In certain cases, modifications might be required to meet some criteria, for example, supplying a permanent alternate water supply if the site were within 1 mile of a drinking water source. The potentially favorable level would avoid damage to public health and the environment, and comply with all regulations and conditions for siting a facility. However, some factors may increase the cost or difficulty in siting. Therefore, this level is assigned a value of 2 points.
- 3) Unfavorable. This level would not meet the criterion. A site given this rating would have significant potential public health risks, environmental risks, or would cause significant difficulty or expense in the process of obtaining necessary permits. An unfavorable ranking would eliminate a given site from consideration.

b. Quantitative Criteria

The following quantitative criteria would be used in Stage II screening:

- 11) mineral and energy resources
- 12) drinking water sources
- 13) critical wildlife habitats
- 14) conservation areas
- 15) cultural areas
- 16) population areas
- 17) prime farmland
- 18) nonattainment areas
- 19) prevention of significant deterioration

## MONTHLY VARIANCE REPORT

06/30/87

| No. Facility                | Program             | Engineer               | Subject                | Decision | Date     |
|-----------------------------|---------------------|------------------------|------------------------|----------|----------|
| 1 Polk City, City of        | Wastewater Const.   | Snyder & Associates    | Curtain Wall           | approved | 06/01/87 |
| 2 Toledo, City of           | Wastewater Const.   | H. R. Green Co.        | Interconnecting Piping | approved | 06/02/87 |
| 3 Keokuk, City of           | Wastewater Const.   | Shoemaker & Healand    | Minimum Sewer Size     | approved | 06/03/87 |
| 4 Klemm, City of            | Wastewater Const.   | Wallace, Holland, K, S | Curtain Wall           | approved | 06/03/87 |
| 5 Pleasantville, City of    | Wastewater Const.   | Garden & Associates    | Sewer Design Depth     | approved | 06/03/87 |
| 6 Humeston, City of         | Wastewater Const.   | Hall Engineering Co    | Pond Seal Testing      | denied   | 06/08/87 |
| 7 Pleasantville, City of    | Wastewater Const.   | Garden & Associates    | Cleanouts              | approved | 06/08/87 |
| 8 Pleasantville, City of    | Wastewater Const.   | Garden & Associates    | Interconnecting Piping | approved | 06/08/87 |
| 9 Pleasantville, City of    | Wastewater Const.   | Garden & Associates    | Manhole Spacing        | approved | 06/15/87 |
| 10 Hardin County            | Flood Plain         | Hardin Co. Engr.       | Freeboard              | approved | 06/18/87 |
| 11 Littlefield Recr. Area 2 | Water supply Const. | Audubon Co. Engr.      | Construction Materials | approved | 06/15/87 |

# M E M O R A D U M

DATE: July 1, 1987

TO: Environmental Protection Commission

FROM: Mike Murphy

SUBJECT: Summary of Administrative Penalties

The following administrative penalties are due:

| <u>NAME/LOCATION</u>                         | <u>AMOUNT</u> | <u>DUE DATE</u> |
|--|---------------|-----------------|
| *Shelter Shield (Buffalo Center)             | \$1,000       | 12-03-86        |
| *Lawrence Payne (Ottumwa)                    | 700           | 12-05-86        |
| *Country Corner Cafe (Pacific Junction)      | 400           | 12-21-86        |
| *Cedar Hills Apartments (Dubuque)            | 1,000         | 12-29-86        |
| *Chico's Supper Club (Burr Oak)              | 863           | 2-10-87         |
| *City of Dysart                              | 400           | 3-13-87         |
| *OK Lounge (Marion)                          | 448           | 3-29-87         |
| Rhinehart Construction Co. (N. Dallas SLF)   | 800           | 5-15-87         |
| Giese Construction Co. (Eagle Grove)         | 1,000         | 5-25-87         |
| Chicago Central & Pacific RR (Fort Dodge)    | 1,000         | 6-08-87         |
| The Midway (Holy Cross)                      | 336           | 6-08-87         |
| The Moore Oil Co. (West Branch)              | 336           | 6-09-87         |
| Fox Roller Rink (Camanche)                   | 172           | 6-10-87         |
| Sport Wade, Inc. (Weldon)                    | 24            | 6-20-87         |
| The Bank (Turin)                             | 212           | 6-28-87         |
| Telegrove Water Assn. (Davenport)            | 50            | 6-30-87         |
| City of Swan                                 | 530           | 7-01-87         |
| **K & K Truckstop (Lenox)                    | 162           | 7-01-87         |
| Country Living MHP (Altoona)                 | 400           | 7-06-87         |
| Monti-View MHP (Monticello)                  | 200           | 7-06-87         |
| Marion County Care Facility                  | 100           | 7-15-87         |
| Ken Turner (Fort Madison)                    | 200           | 7-15-87         |
| Elings/Catron/Frey (Des Moines)              | 1,000         | 7-18-87         |
| Huegerich Homes of Carroll                   | 1,000         | 7-19-87         |
| Winnebago Industries, Inc.                   | 600           | 7-19-87         |
| E.J. Rath, Inc. (Missouri Valley)            | 50            | 7-20-87         |
| Regional Environmental Imp. Comm. (Marengo)  | 1,000         | 7-20-87         |
| Orrie's Supper Club (Hudson)                 | 336           | 7-21-87         |
| Frederika's Tap (Frederika)                  | 50            | 8-01-87         |
| Country Corner Cafe (Pacific Junction)       | 451           | 8-05-87         |
| JTM Indust./MacDade/Leamer (Pleasant Valley) | 1,000         | 8-12-87         |
| Glen Mark Subdivision (Burlington)           | 436           | 8-19-87         |
| McFedries (Davenport)                        | 1,000         | 8-19-87         |
| Wilson/Pingel (Fort Dodge)                   | 500           | 8-19-87         |
| Trausch Co. (Carroll)                        | 1,000         | 8-19-87         |
| Trausch Co. (Carroll)                        | 1,000         | 8-19-87         |
| City of Shenandoah                           | 500           | 8-21-87         |
| Golden Slipper (Dunlap)                      | 250           | 8-21-87         |

\* Referred to the Attorney General

\*\* On Payment Schedule

ENVIRONMENTAL PROTECTION COMMISSION

ITEM 9

INFORMATION

STATE CONSTRUCTION GRANT STATUS

State construction grants have provided an important five percent assistance in the financing of wastewater projects. Recently, state construction grant funds were nearly depleted. A recent fiscal 1988 legislative appropriation of \$1.2 million is projected to be totally obligated to projects scheduled for fiscal 1987 federal funding. This will leave unfunded demands for state grants for fiscal 1988 federally funded projects. It is important that the Commission be informed as to state grant needs, options and state grant administration. Grantee interest requires the state to have a clear procedure for grant administration.

It appears there will be a shortage of approximately \$2.5 million in funds to provide state grants to eligible cities which will receive federal fiscal 1987 and 1988 funds by July of 1988. Options include ending the state grant program, supplemental fiscal 1988 state appropriations or fiscal 1989 appropriations. Present rules permit the use of any appropriations to be used for eligible grant needs.

Farrand  
July 7, 1987

(128)



ENVIRONMENTAL PROTECTION COMMISSION

ITEM 11

DECISION

REVISION OF RULE CHAPTER 62 -- EFFLUENT STANDARDS

The Department requests Commission approval of amendments to Chapter 62 rules. The amendments update the Commission's adoption by reference of federal wastewater discharge standards.

In accordance with Iowa Code section 17A.4(2), public notice and participation is unnecessary. Under rule 62.2(455B) the Commission has determined previously that good cause exists for exempting from the notice and public participation requirements of Iowa Code section 17A.4(1) the adoption by reference of certain federal effluent and pretreatment standards. The Commission found that public participation is unnecessary since the Commission must adopt effluent and pretreatment standards at least as stringent as the enumerated promulgated federal standards in order to have the department's NPDES program approved by the federal administrator and yet must not adopt a standard that is more stringent than the enumerated promulgated federal standard due to Iowa Code section 455B.173(3).

Mike Murphy  
July 6, 1987

(127)

ENVIRONMENTAL PROTECTION COMMISSION

ITEM 13

INFORMATION

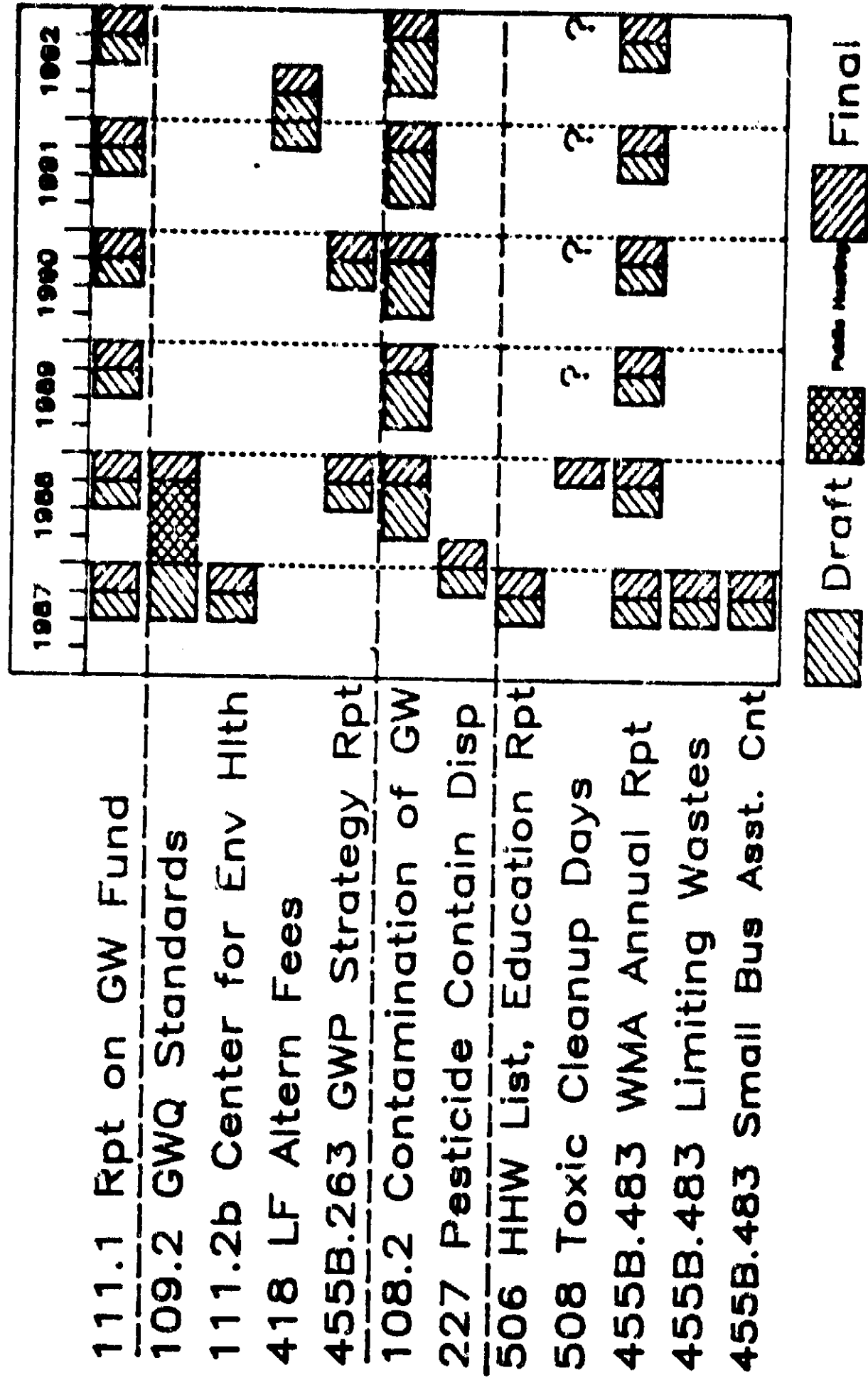
CONTRACT REPORT

Stan Kuhn, Division Administrator, Administrative Services Division, will review the attached report of the Environmental Protection Division contract activities.

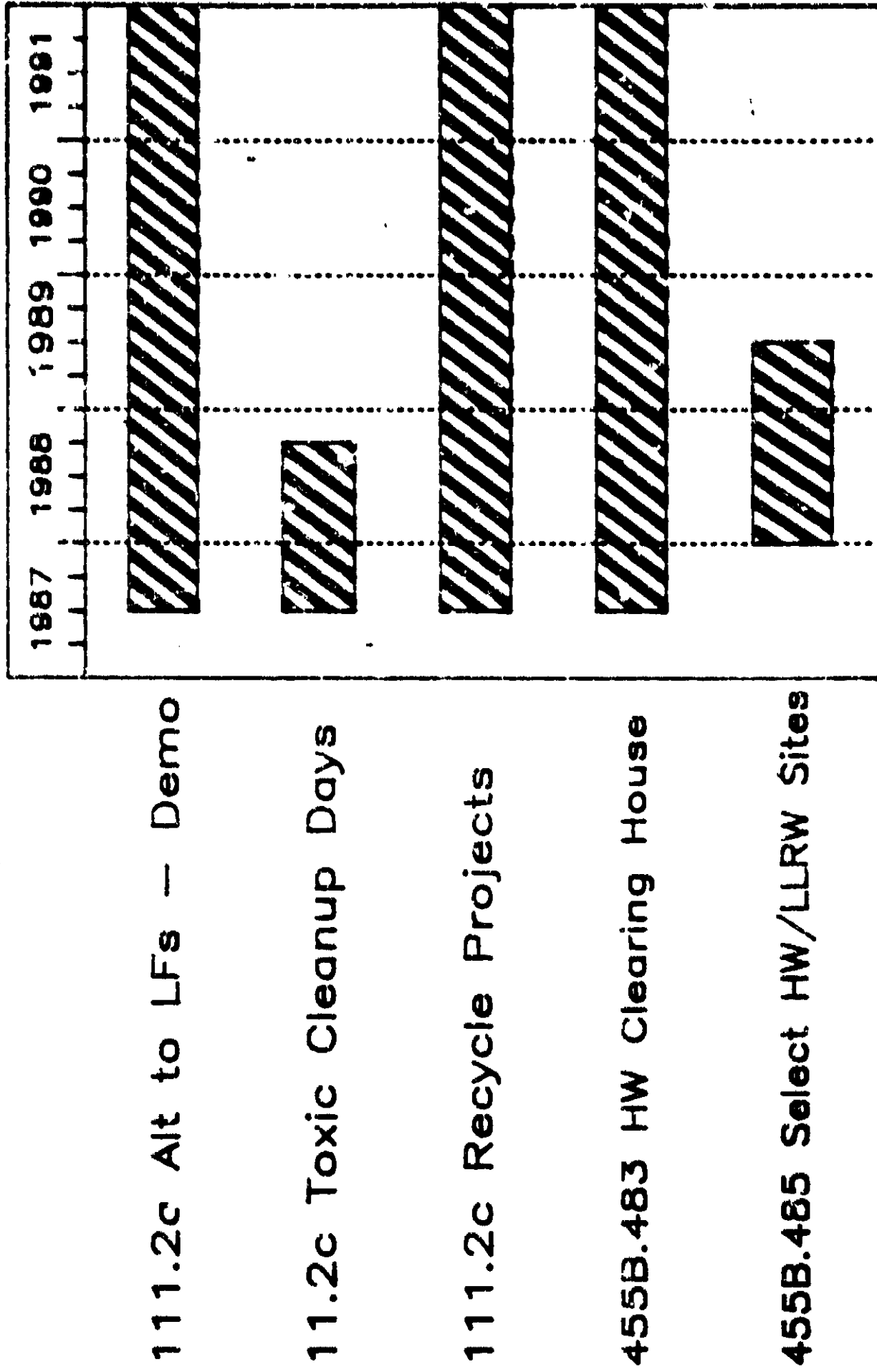
Stan Kuhn  
June 29, 1987

(119)

# DNR Activities Reports to the General Assembly 1987 Groundwater Bill



# Other DNR Activities Related to 1987 Groundwater Bill Waste Management Authority Division



Chapter 152  
CRITERIA FOR SITING LOW-LEVEL RADIOACTIVE  
WASTE DISPOSAL FACILITIES

567--152.1(455B) Authority, purpose and scope.

152.1(1) Authority. This chapter is authorized in the 1986 Iowa Code section 455B.485 paragraph 2, which relates to the siting of low-level radioactive waste disposal facilities.

152.1(2) Purpose. These regulations establish criteria for identifying sites which are suitable for operation of low-level radioactive waste disposal facilities. The waste management authority will apply these criteria to identify and recommend to the commission sites suitable for locating these facilities.

152.1(3) Scope. These regulations apply only to facilities which are owned or operated by the state of Iowa and privately owned or operated facilities which are located upon land owned by the state of Iowa which are used for low-level radioactive waste disposal pursuant to Iowa Code section 455B.485 paragraph 2.

567--152.2(455B) Definitions. In addition to the definitions in Iowa Code section 455B.481, the following definitions apply to this chapter:

"Aquifers" means water-bearing geological formations, group of formations, or part of a formation that is capable of yielding significant amounts of groundwater for beneficial use.

"Conservation area" means any park, recreation area, wildlife area, forest, prairie, preserve, natural area, scenic area owned, managed, or under control of any government agency or organized conservation group on or before the date of enactment of these rules.

"Criterion" means a test, rule, measure, or model by which judgment will be made.

"Critical wildlife habitat" means any areas known to be inhabited on a seasonal or permanent basis by, or to be critical at any stage of the life cycle of any wildlife or vegetation identified as "rare," "threatened," or "endangered" by official federal or state lists of species, or is under active consideration for listing.

"Cultural area" means any known property of recognized archaeological, architectural, cultural or historical significance as listed in or eligible for the National Register of Historic Places, the significant State Site records of the Office of Historic Preservation, the Office of the State Archaeologist, or is under active consideration for listing. Archaeological property shall include, but is not limited to, ancient mortuary sites.

"Dam hazard area" means any area identified as areas of dynamic flooding below a dam (the inundation zone) or areas of static flooding above a dam (flood pool). The inundation zone includes the area that would be flooded by a flood wave generated by dam failure during a one hundred (100)-year flood. The static flooding zone is equal to the pool level reached during a one hundred (100)-year inflow flood, or the top of the dam, whichever is greater.

"Drinking water source" means the groundwater or surface water intake of drinking water used for human consumption.

"Facility" means any hazardous waste management facility including land and structures, appurtenances, improvement and equipment for handling, treatment, storage or disposal of hazardous wastes.

"Floodplain" means the land adjacent to a stream which has been or may be inundated by a flood having the magnitude of the regional one hundred (100)-year flood.

SUMMARY

Senate File 463, adopted by the Legislature in 1985, directs the Department to "adopt rules establishing criteria for the identification of land areas or sites which are suitable for the operation of a treatment or disposal facility." The law also directs the Department to "submit a plan for the siting and construction of an above-ground facility for the long-term storage of hazardous wastes." The criteria for siting such a facility are contained in this report.

Chapter A explains why a hazardous waste management facility and siting criteria are needed.

In Chapter B, the methodology to be used in the siting process is discussed.

The siting criteria for a management facility are discussed in Chapter C.

Using these criteria to screen the state for acceptable sites is explained in Chapter D.

- f. A short-term storage area would be established in the unloading area. When sufficient amounts of waste were collected, they could be sent to other management facilities or to treatment equipment on-site.
- g. Only stabilized wastes would go to the long-term storage facility. On-site treatment equipment would stabilize wastes destined for long-term storage by chemically or physically binding liquid wastes into a solid mass to prevent leaching. These stabilized wastes would be placed in appropriate containers prior to long-term storage.

#### 4. Need for Criteria

In preparing the Hazardous Waste Management Plan, the Department determined that at present, there are no comprehensive criteria or methodologies available to use in selecting the best site for a facility. A summary of existing guidelines and their limitations follows.

- a. Federal Government. The Resource Conservation and Recovery Act (RCRA) sets forth regulations covering hazardous waste generation, transportation, and ultimate management. These standards apply to all states. Part 264.18 lists standards for siting hazardous waste management facilities.
  - 1) "Seismic Considerations. Portions of new facilities where treatment, storage, or disposal of hazardous waste will be conducted must not be located within 61 meters (200 feet) of a fault which has had displacement in Holocene time...."
  - 2) "Flood Plains. A facility located in a 100-year floodplain must be designed, constructed, operated and maintained to prevent any washout of any hazardous waste by a 100-year flood unless the owner or operator can demonstrate to the Regional Administrator that procedures are in effect which will cause the waste to be removed safely, before flood waters can reach the facility, to a location where the wastes will not be vulnerable to floodwaters...."
- b. State Governments. Twenty-eight of the 50 states have siting criteria more detailed than those found in RCRA. Although these states have adopted criteria, methods to quantify, weight and rank these criteria are lacking. Some criteria are exclusionary (i.e., prohibit siting) while others are merely advisory. Few states have specific siting methodology.
- c. Iowa Government. Iowa is one of the 22 states that lacks criteria for siting hazardous waste management facilities. There is, however, a site licensing regulation that is often confused with real siting criteria.

Chapter 900--150 (455B) Iowa Administrative Code is the site licensing regulation. This regulation is only to be implemented in reaction to a private applicant proposing that a facility be sited

Following review of the criteria by the Commission public hearings on the proposed rules would be held. The Department would hold these hearings in several locations around the state to encourage participation by the general public. All comments received through this hearing process would be considered and incorporated as appropriate in the final rules.

During the implementation stage, the public would be informed of the process through news releases and other public information programs. When the final candidate sites, chosen through the three stage screening process described before, are announced public meetings would be held in those communities.

For each candidate site a temporary commission, the Department's Commission and up to four citizens of the local community, would meet. This temporary commission would act on site licensing procedures found in Chapter 900--150(4558), IAC. All meetings would be open to the public, whose attendance and participation would be encouraged.



## 7. Wetlands

This criterion is proposed to protect surface and ground water from contamination by prohibiting the siting of a facility in a wetland. For the purposes of the siting process, "wetland" is defined as any swamp, marsh, bog, slough, wet meadow, mudflat, sandflat, pond, lake and similar areas. Wetlands provide a connection between ground and surface waters, therefore contamination of wetlands can lead to contamination of these waters. To prevent adverse impacts to public health and the environment, wetlands must be protected.

The Department proposes that a separation distance of 1 mile be used as a safety factor. One mile should separate the active portion of a facility from the boundary of a wetland. The one mile distance should be used as a minimum separation distance for all areas of potential water contamination.

Information about wetlands is available from the DNR.

## 8. Protected Basins

This criterion is proposed to prevent contamination of protected water areas by prohibiting construction in their watersheds. For the purpose of this criterion, "protected water areas" are those classified as:

- a. protected water areas, as designated under the authority of 108A, Code of Iowa
- b. Class B, Cold Water (trout streams) as designated in 900--Chapter 61(455B) Iowa Administrative Code
- c. Class C (drinking water supply) as designated in 900--Chapter 61 (455B) Iowa Administrative Code

For the purposes of this criterion, "protected basin" is defined as any portion of a drainage basin of the forementioned protected water areas, including their tributaries, within 2 miles of the water area.

This criterion is designed to protect public health and the environment by preventing contamination of protected water areas.

Information about watersheds is available from DNR.

## 9. Aquifers

This criterion is proposed to protect public health and the environment by preventing contamination of major ground water aquifers. No site will be permitted over an aquifer with less than a 100 foot thickness of low-permeability (aquitard) soil or rock material (e.g., glacial till and claystone-shales) between the base of the facility and the subjacent aquifer. Candidate sites must have such a thickness existing for a radius of at least 1 mile around the location.

Because of concerns with fracture porosity and permeability in soil and rock materials, the above-mentioned thickness was chosen to provide a safety margin for ground water protection.

21. Proximity to Major Generators

This criterion is proposed to favor sites located near major generators of hazardous wastes in Iowa.

The purpose of this criterion is to reduce the distance wastes must be transported in order to reduce costs and the chance of accidental spills. A distance of 50 miles or less should be considered favorable, and distances of over 50 miles should be rated as potentially favorable.

For the purpose of this criterion, distances should be measured from the central point of generation based on the latest available RCRA biennial report on hazardous waste generation in Iowa.

Information about distances from specific waste generators should be available from DNR.

22. Utilities and Services

This criterion is proposed to favor sites with access to existing utilities and services.

Utilities include electricity, gas, water and sewers. Services include police and fire protection and emergency health care. Those sites having access to existing services should receive a favorable rating. Those sites which would need to have these services extended should be rated as potentially favorable.

Information about utilities and services should be available from maps and surveys.

- 20) transportation routes
- 21) proximity to major generators
- 22) utilities and services

### 3. Stage III -- Final Site and Engineering Analysis

The objective of the proposed Stage III screening would be to perform a final evaluation on the 5 highest-ranked sites identified in Stage II. This evaluation would include detailed on-site studies and would determine how well the site could comply with regulations, permit and license requirements. The cost of construction and operation would also be evaluated.

Each of the top 5 sites would have met the health and environmental criteria in Stages I and II. Therefore, each of the sites would be considered a safe and proper location for an above-ground facility for the long-term storage of hazardous waste.

#### a. Final Site Analysis

The goal of this analysis would be to identify the most preferred site. Site specific analysis would be performed on all 5 candidate sites to determine:

- 1) potential problems in complying with regulations
- 2) potential problems in obtaining necessary permit and licenses
- 3) potential problems in other areas that might delay or prevent the facility from being constructed

The potential problems of each site would be identified and evaluated in relation to the other four sites. The site with the fewest potential problems would be selected.

#### b. Engineering Analysis

The goal of this analysis would be to identify the most preferred site. Site specific analysis would be performed on all 5 candidate sites to determine:

- 1) differences in design of facilities
- 2) differences in construction and operation costs
- 3) differences in cost to the user

The differences in design and costs would be identified and evaluated in relation to each of the other four sites. The site with the fewest identified engineering difficulties and with the lowest costs would be selected.

#### c. Demonstration of Stage III Screening

The candidate sites identified in Stage II screening would undergo intensive examination. Detailed maps would be prepared showing all structures within a 1 mile radius of the potential site. On-site investigation, monitoring, and geologic studies would be conducted.

# REPORTS OF HAZARDOUS CONDITIONS

During the period of June 1, 1987 through June 30, 1987, reports of 73 hazardous conditions were forwarded to the Central Office. Two incidents are highlighted, followed by a general summary and the number per field office.

| Date Reported and County | Description: Material, Amount, Date of Incident, Cause, Location, Impact   | Responsible Party  | Response and Corrective Actions   |
|--------------------------|--|--|---|
| 6/01/87<br>LEE           | A hose connecting a tank truck to a storage tank sprang a leak while transferring sulfuric acid at Fort Madison, IA on June 1, 1987, and about 150 gallons of product spilled onto the roadway and into the ditch. | Amex<br>P.O. Box 220<br>Fort Madison, Iowa<br>52627              | The road ditch was dammed with bags of soda ash. Soda ash was scattered over the accumulated acid. Acid on the roadway was flushed into the ditch with water and diluted. The pH was monitored until the mixture was neutral. |
| 6/12/87<br>HOWARD        | A truck rolled backward into a road ditch near Cresco, Iowa on June 12, 1987, and about 1,100 gallons of a mixture containing 28% nitrogen fertilizer and ammonium thiosulfate spilled onto a field.               | Hunting Elevator Co., Route 4,<br>Box 21A, Cresco, Iowa<br>52136 | About 150 gallons of liquid were recovered. Contaminated soil was excavated and spread on a nearby pasture. Topsoil was replaced.   |

RK: bag/ERM187L02.01

The following administrative penalties have been appealed:

| <u>NAME/LOCATION</u>                 | <u>AMOUNT</u> |
|--------------------------------------|---------------|
| *Finlan Landfill (Chickasaw County)  | \$1,000       |
| Besch/Ralston (Fort Dodge)           | 500           |
| Kula and Boge (Martelle)             | 1,000         |
| Handi-Klasp, Inc. (Webster City)     | 1,000         |
| Munn and Traum (Davenport)           | 100           |
| Lakewood Sanitary District           | 1,000         |
| Scotty's Auction Service (Davenport) | 100           |
| Des Moines Metro SLF                 | 1,000         |
| Iowa City Regency MHP                | 1,000         |
| Bianchi Meyrat Lagoon (Des Moines)   | 600           |
| Thomas E. Lannon (Barnum)            | 700           |
| City of Toledo                       | 500           |
| Larsen/O'Donnell (Humboldt)          | 500           |
| Trausch Co., Inc. (Carroll)          | 1,000         |

The following administrative penalties were paid in June:

| <u>NAME/LOCATION</u>                           | <u>AMOUNT</u> |
|--|---------------|
| Shady Oaks Golf Course (Ackworth)              | \$ 212        |
| Indian Creek Country Club (Nevada)             | 62            |
| **K&K Truckstop (Lenox)                        | 25            |
| Delano's Lounge (Ainsworth)                    | 100           |
| City of Waterloo                               | 1,000         |
| City of Kellogg                                | 500           |
| Lake Keokuk Yacht Club (Keokuk)                | 224           |
| Kingsbury Inn (Columbus Junction)              | 150           |
| Broadview Courts (Dubuque)                     | 324           |
| Clarmond Country Club (Clarion)                | 174           |
| J.I. Case, Inc. (Bettendorf)                   | 500           |
| Madison County Home                            | 300           |
| Farmer's Coop (Radcliffe)                      | 500           |
| Denny's Ag Supply (Charles City)               | 500           |
| Eagle Grove Country Club                       | 100           |
| Cherokee County Landfill Commission            | 600           |
| Livestock Placement Service (Jefferson County) | 500           |
| Rosey's DMT Ballroom (Rolfe)                   | 75            |
| Dows Golf Course                               | 224           |
| NW States Cement (Mason City)                  | 750           |

Penalties were rescinded for Redwood Resort (Ruthven) and Valley Inn (Cresco).

\* Referred to the Attorney General

\*\* On Payment Schedule

ENVIRONMENTAL PROTECTION COMMISSION

ITEM 10

DECISION

MAXIMUM CONTAMINANT LEVELS IN USED OIL -- PCB DETECTION LIMITS -- CHAPTER 143

455B.412 of the Iowa Code requires the Commission to establish maximum levels of contaminants in oil. One of the contaminants specified in 455B.412 is polychlorinated biphenyl (PCB).

When the rules were developed, it was the intent of the department to allow no detectable amount of PCB in recycled or used oil used as a road oil, dust suppressant or for weed control. When the rules were developed, (Chapter 143), a detectable limit of 0.001 mg/l was determined to be the applicable detection limit.

Since the rules became effective, the department has learned that the detection limit for PCB in an oily-type waste is not 0.001 mg/l but approximately 5 mg/l using standard methods and reasonable reliability. The 0.001 mg/l detection level would be attainable for analysis of a drinking water-type liquid only. Rule 143.6(455B) is modified by changing the maximum contaminant level for PCB to be 5 mg/l.

Hamlin  
July 7, 1987

(101.EPC/sc)

ENVIRONMENTAL PROTECTION COMMISSION (567)  
Emergency Adopted Rule

Pursuant to Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission amends 567—Chapter 62, "Effluent and Pretreatment Standards: Other Effluent Limitations or Prohibitions," Iowa Administrative Code. The purpose of the emergency filing is to update references in rules 62.4(455B) and 62.5(455B) to federal effluent and pretreatment standards found in 40 Code of Federal Regulations (CFR) which need to be changed due to federal amendments and revisions to 40 CFR.

In accordance with Iowa Code section 17A.4(2), the Commission finds that public notice and participation is unnecessary. Under rule 62.2(455B) the Commission has determined previously that good cause exists for exempting from the notice and public participation requirements of Iowa Code section 17A.4(1) the adoption by reference of certain federal effluent and pretreatment standards. The Commission found that public participation is unnecessary since the Commission must adopt effluent and pretreatment standards at least as stringent as the enumerated promulgated federal standards in order to have the Department's NPDES program approved by the federal administrator and yet must not adopt a standard that is more stringent than the enumerated promulgated federal standard due to Iowa Code section 455B.173(3).

These rule amendments may have an impact on small businesses.

The Commission adopted these rule amendments on July 20, 1987. The amendments will become effective on September 16, 1987.

---

ITEM 1. Amend rule 62.4(455B) to read as follows:

567—62.4(455B) Federal effluent and pretreatment standards. The federal standards, 40 Code of Federal Regulations (CFR), revised as of July 1, 1985 1986, are applicable to the following categories.

ITEM 2. Amend subrule 62.4(3) as follows:

62.4(3) General pretreatment regulations for existing and new sources of pollution. The following is adopted by reference: 40 CFR 403 as amended on September 25, 1985 (50 FR 38841), April 30, 1986 (51 FR 16030), June 4, 1986 (51 FR 20426), and June 9, 1986 (51 FR 20828), July 1, 1986 (51 FR 23759), October 9, 1986 (51 FR 36368), and January 14, 1987 (52 FR 1600).

ITEM 3. Amend subrule 62.4(5) as follows:

62.4(5) Dairy products processing industry point source category. The following is adopted by reference: 40 CFR part 405 as revised on July 9, 1986 (51 FR 24974).

ITEM 4. Amend subrule 62.4(6) as follows:

62.4(6) Grain mills point source category. The following is adopted by reference: 40 CFR part 406 as revised on July 9, 1986 (51 FR 24974).

ITEM 5. Amend subrule 62.4(7) as follows:

62.4(7) Canned and preserved fruits and vegetables processing point source category. The following is adopted by reference: 40 CFR part 407 as revised on July 9, 1986 (51 FR 24974).

ITEM 6. Amend subrule 62.4(8) as follows:

62.4(8) Canned and preserved seafood processing point source category. The following is adopted by reference: 40 CFR part 408 as revised on July 9, 1986 (51 FR 24974).

ITEM 7. Amend subrule 62.4(9) as follows:

62.4(9) Sugar processing point source category. The following is adopted by reference: 40 CFR part 409 as revised on July 9, 1986 (51 FR 24974).

ITEM 8. Amend subrule 62.4(11) as follows:

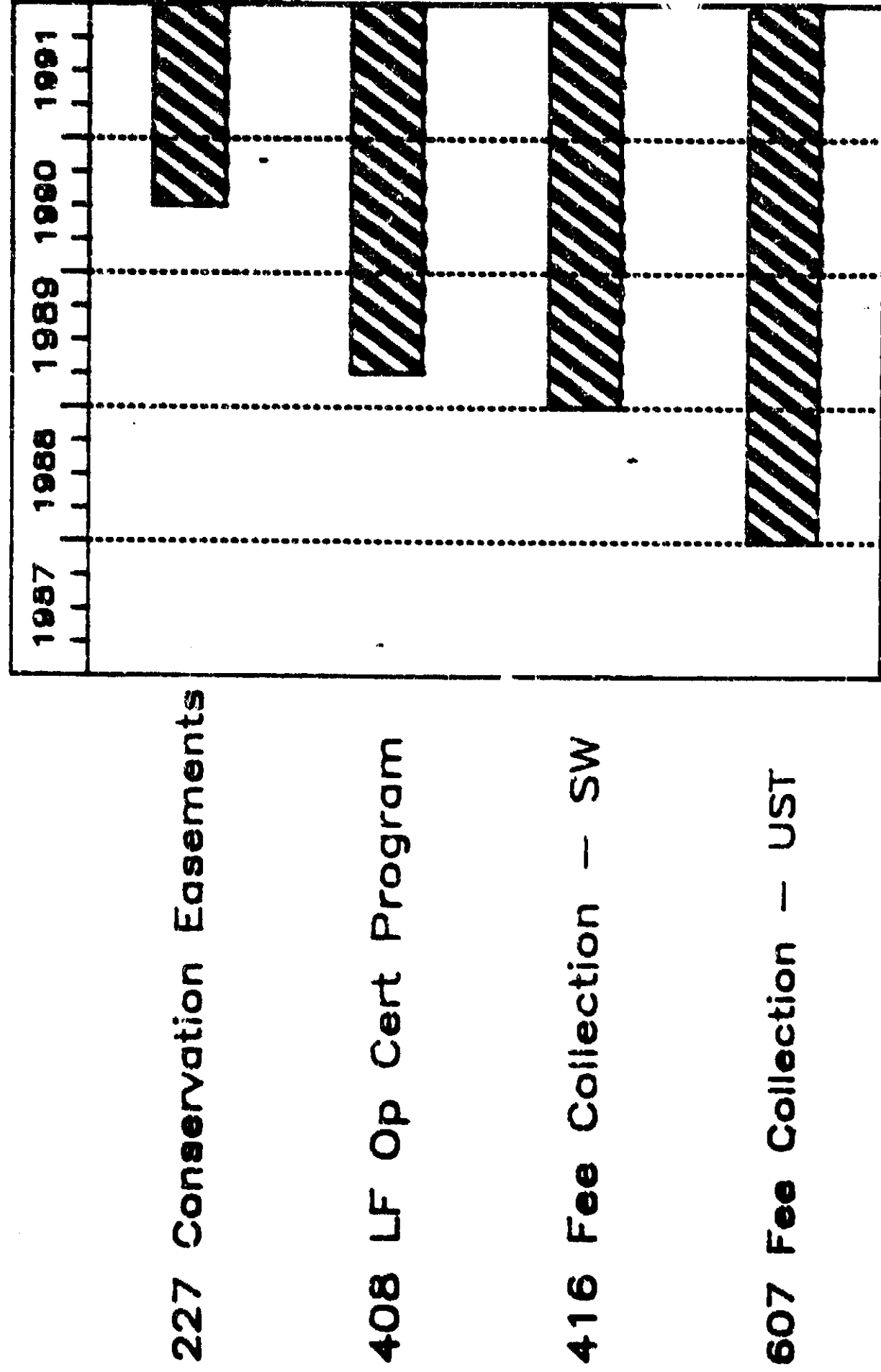
# IOWA DEPARTMENT OF NATURAL RESOURCES

Contracts and Agreements Entered Into During the Month of July, 1987

| TITLE & NUMBER                                     | CONTRACTOR                                  | AMOUNT     | PERIOD           | COMMENTS   |
|--|---|------------|------------------|--|
| U.S. Geological Survey<br>Water Resources Division | U.S. Dept. of Interior<br>Geological Survey | \$3,600.00 | 10/01/86-9/30/87 | To cover publication and associated costs of the report <u>"Method For Estimating The Magnitude and Frequency of Floods At Ungaged Sites on Unregulated Rural Streams in Iowa"</u> . |



# Other DNR Activities Related to 1987 Groundwater Bill Administrative Services Division



ENVIRONMENTAL PROTECTION COMMISSION

ITEM 17

DECISION

REFERRALS TO THE ATTORNEY GENERAL

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the Commissioners and are confidential pursuant to Iowa Code Section 22.7(4).

Burlington Northern Railroad - Air Quality  
The Midway (Holy Cross) - Penalty Collection

The King Management case, previously tabled, is requested to be left on the table until the August meeting, as staff is attempting to resolve that case.

Mike Murphy  
July 2, 1987

(I38)

"Geological hazard structures" means any faults, fracture zones, or other structures that may provide pathways to groundwater.

"Karst areas" means a type of topography or surface area covered by alluvial or colluvial sediments that may form over limestone, dolomite, or gypsum formations by dissolving or solutions, and that are characterized by closed depressions or sinkholes, caves, and underground drainage.

"Mineral and energy resources" means minerals, construction materials, metals, coal, gas, and oil.

"Mining activity" means any area of past or present underground or surface mining, mineral extraction, or major exploration or production drilling for oil, gas, or mineral resources, and any area likely to be influenced by mining activity through subsidence or surface deformation.

"Nonattainment area" means any area not attaining the National Ambient Air Quality Standards as defined in Part D of the Clean Air Act.

"Population area" means any commercial, school, church, social, medical facility, elderly housing, correctional facility, mobile home park, or incorporated residential area.

"Prevention of significant deterioration" is defined in Part C of the Clean Air Act.

"Prime farmland" means any area identified as such by the United States Department of Agriculture, Soil Conservation Service.

"Protected basins" means any portion of the drainage basin of protected water areas within two (2) miles of the water area. Protected water areas are those classified as such pursuant to Iowa Code chapter 108A, or high-quality waters, high-quality resource waters or Class "C" waters designated in Chapter 61 of the department's rules.

"Proximity to major generators" means within fifty (50) miles of the central point of generation based on the latest available RCRA biennial report on hazardous waste generation in Iowa.

"Seismic risk" means the relative geologic stability of the site based on the likelihood of structural damage due to seismic events. Seismic risk categories, as developed by the National Oceanographic and Atmospheric Administration, will be used to rate relative stability.

"Site" means the land area upon which a facility is, or is proposed to be, physically located, including but not limited to adjacent land use for utility systems such as repair, storage, processing, or other areas incident to the facility or operation.

"Siting authority" means the party with the specific authority to select sites for facilities.

"Transportation routes" means any public all-weather hard-surfaced road with adequate capacity to carry the type and volume of commercial vehicular traffic serving the facility for the entire year with no embargoes, special permits or other restrictions on roads, overpasses or bridges that would prevent transportation to the facility.

"Utilities and services" means electricity, gas, water and sewer utilities, and police, fire protection, and emergency medical services.

"Wetlands" means any area inundated by surface or groundwater with a frequency sufficient to support, under normal circumstances, a prevalence of vegetation or wildlife requiring saturated or seasonally saturated soil conditions for growth or reproduction. These areas include swamps, marshes, bogs, sloughs, wet meadows, mudflats, sandflats, ponds, lakes, and similar areas.

567--152.3(455B) Siting criteria. The siting authority shall use the following criteria in selecting sites for facilities.

151.3(1) Exclusionary criteria. No facility shall be sited within:

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in a specific location. The site licensing commission (made up of the Department's commission plus four people from the location of the proposed site) must consider whether the proposed site will have an impact on a number of "criteria" listed. There is no mechanism to quantify the criteria nor is there a specific step-by-step methodology outlined or required by the statute for such applicants.

The site licensing "criteria" would be used only in reaction to an applicant for a request to build a facility. The site licensing procedure would not be used to locate the safest site for a facility.

By comparison, the proposed siting criteria and selection methodology would be used to select the best sites for a hazardous waste facility based on exclusionary and quantifiable criteria.

#### 5. Legislative Mandate

Based in part on the recommendations of the Hazardous Waste Management Plan, the Iowa General Assembly enacted Senate File 463. This law, signed by Governor Branstad on May 28, 1985, directs the Department to "submit a plan for the siting and construction of an above-ground facility for the long-term storage of hazardous wastes."

This law also directed the Department to "anticipate and provide for compatibility with a possible future expansion to include other methods of disposal at the site" These "other methods" are identified in the Hazardous Waste Management Plan as incineration and treatment processes.

Furthermore, this law directed the Department to "adopt rules establishing criteria for the identification of land areas or sites which are suitable for the operation" of this facility.

To fulfill the requirements of S.F. 463 and the recommendations of the Hazardous Waste Management Plan, the Department is issuing these draft siting criteria.

## C. HAZARDOUS WASTE SITING CRITERIA

The Department proposes the following criteria to eliminate sensitive areas and to locate the safest areas for siting a hazardous waste management facility. These criteria, summarized in Table 2, are discussed in greater detail in the text. The criteria are listed in no particular order of priority.

TABLE 2. HAZARDOUS WASTE FACILITY SITING CRITERIA

| <u>Criterion</u>                         | <u>Favorable</u>  | <u>Potentially<br/>Favorable</u>                             | <u>Unfavorable</u>   |
|--|---|--|--|
| 1. Seismic Risk                          | NOAA Risk<br>Category 1   | NOAA Risk<br>Categories 2 or 3                               | NOAA Risk<br>Category 4  |
| 2. Geologic Hazard<br>Structures         | Not present within<br>one mile  | --   | Within one mile  |
| 3. Karst Areas                           | Not present within<br>one mile  | --   | Within one mile  |
| 4. Mining Activity                       | Not present within<br>one mile  | --   | Within one mile  |
| 5. Flood Plains                          | Not in a 100-year<br>flood plain  | --   | In a 100-year<br>flood plain   |
| 6. Dam Hazard Areas                      | Not in a dam hazard<br>area   | --   | In a dam hazard<br>area  |
| 7. Wetlands                              | Not within one mile   | --   | Within one mile  |
| 8. Protected Basins                      | Not within two miles<br>of the water area   | --   | Within two miles<br>of the water area  |
| 9. Aquifers for<br>Radius of One<br>Mile | At least 100 feet<br>of aquitard between<br>base of operation<br>and subjacent<br>aquifer | --   | Less than 100<br>feet of aquitard<br>between base of<br>operation and<br>subjacent aquifer |
| 10. Nuclear Power<br>Plant               | Not within ten miles  | --   | within ten miles   |
| 11. Mineral and<br>Energy Resources      | No significant<br>presence within one<br>mile   | Significant<br>presence with<br>perpetual ban on<br>recovery | --   |

Information about aquifers is available from DNR.

#### 10. Nuclear Power Plants

This criterion is proposed to minimize the potential disruption to the operation of the facility should an accident occur at a nuclear power plant.

The ten mile distance was selected based on the emergency planning zone distance established by the U.S. Nuclear Regulatory Commission.

Information about nuclear power plants is available from the Iowa Office of Disaster Services.

#### 11. Mineral and Energy Resources

This criterion is proposed to evaluate mineral and energy resources contained in an area considered for a facility. These resources include construction material, coal, petroleum, metals and minerals. The presence of a hazardous waste management facility would forever prevent the recovery or mining of mineral or energy resources at a given site.

This criterion would be used to evaluate mineral and energy resources within 1 mile of a proposed site. The present and projected economic value of these resources and the availability of other sources would be evaluated.

If no critical mineral or energy resources were found within 1 mile of a site, the site would be given a favorable rating for this criteria.

Information about mineral and energy resources is available from DNR.

#### 12. Drinking Water Sources

This criterion pertains to the minimum allowable distance from the boundary of the active portion of a facility to a drinking water source. A distance of 1 mile was selected for this criterion. This distance was selected to assure there would be no adverse effects on a water source from potential ground water contamination from a facility. Obviously, protecting ground water and drinking water sources from contaminants would protect public health.

If no source of drinking water were found within 1 mile of the site, the site would be rated as favorable for this criterion. If a permanent alternative water supply could be provided so a source within the 1 mile distance would no longer be used and that source could be properly sealed, the site would be given a potentially favorable rating for this criterion. A permanent alternative water supply would have to be provided to further consider such a site.

Information about drinking water sources is available from DNR.

#### 13. Critical Wildlife Habitats

This criterion is proposed to protect habitat areas for specific rare, threatened or endangered species of plants and animals and critical habitat

## D. SITING PROCEDURE

The siting procedure proposed by the Department would be carried out in three stages. It is designed to use resources and staff efficiently in applying available information to large areas. The three stages of the screening procedure, as mentioned briefly in Chapter A, are:

### 1. Stage I -- Exclusionary Criteria

The objective of Stage I is to screen the state to eliminate areas unsuitable for locating an above-ground facility for the long-term storage of hazardous waste. In the process, Stage I screening would identify areas that could be considered further for siting this facility.

#### a. Approach and Methodology

Stage I screening would be performed by using an overlay mapping technique with existing data. The entire state would be examined and screened for those criteria which would provide for the protection of public health and the environment.

Stage I screening would be used to identify those areas of Iowa with the greatest potential for groundwater or surface water contamination. The major concern in waste management is to isolate or neutralize wastes so water is not contaminated. Contaminated water is the primary threat to public health and to the environment. Therefore, Stage I screening should be limited to those criteria directly related to protection of groundwater and surface water.

Stage I screening would be used for the entire state by applying existing resource data to overlay maps. The overlay maps would create a composite map of Iowa. Areas covered by overlays would be identified as unsuitable and should be excluded from further consideration. For example, if a site is located in a 100-year flood plain, it would be excluded from further consideration. The overlay map technique is shown in Figures 1 through 3.

Areas not covered by overlays would be considered potentially suitable for siting a facility. Such areas would then be evaluated and ranked in Stage II of the siting process.

For Stage I, the smallest unit of land considered would be the township. Therefore, each area identified for further study would consist of one or more townships. It is expected that Stage I screening would yield at least 20 areas for evaluation in Stage II of the siting process.



#### 4. Final Site Selection

The analyses of the 5 candidate sites would then be compared. The site with the greatest potential should be selected as the site for the facility.

Numbers in Parentheses Represent Reports For The Same Period In Fiscal Year 1986

| Month | Total # of Incidents Reported | Substance Type    |                |                                |                      |          | Mode             |             |       |       |  |
|-------|-------------------------------|-------------------|----------------|--------------------------------|----------------------|----------|------------------|-------------|-------|-------|--|
|       |                               | Petroleum Product | Agri. Chemical | Other Chemicals and Substances | Handling and Storage | Pipeline | Highway Incident | RR Incident | Fire  | Other |  |
| Oct   | 79                            | 45                | 0              | 34                             | 53                   | 0        | 18               | 2           | 6     | 6     |  |
| Nov   | 24                            | 12                | 3              | 9                              | 17                   | 0        | 5                | 1           | 0     | 1     |  |
| Dec   | 43                            | 36                | 1              | 6                              | 24                   | 1        | 14               | 1           | 0     | 3     |  |
| Jan   | 48                            | 32                | 3              | 13                             | 37                   | 0        | 9                | 0           | 1     | 1     |  |
| Feb   | 41                            | 25                | 1              | 15                             | 30                   | 1        | 5                | 1           | 2     | 2     |  |
| Mar   | 55                            | 35                | 5              | 15                             | 37                   | 0        | 12               | 4           | 1     | 1     |  |
| Apr   | 76                            | 32                | 25             | 21                             | 51                   | 3        | 16               | 3           | 2     | 3     |  |
| May   | 74                            | 24                | 29             | 21                             | 39                   | 0        | 24               | 2           | 6     | 3     |  |
| Jun   | 73 (75)                       | 34 (19)<br>UST-19 | 11 (28)        | 28 (28)                        | 47 (39)<br>UST-19    | 1 (1)    | 14 (29)          | 1 (1)       | 2 (0) | 8 (5) |  |

Total # of Incidents Per  
 Field Office 01 02 03 04 05 06  
 This Period 9 12 4 15 21 12

Department of Natural Resources  
Environmental Protection Commission  
Contested Cases  
July 1, 1987

| DATE RECEIVED | NAME OF CASE              | ACTION APPEALED      | PROGRAM     | ASSIGNED TO | STATUS  |
|---------------|---------------------------|----------------------|-------------|-------------|---|
| 9-14-84       | Belmont, et. al.          | Administrative Order | HC          | Landa       | Proposed decision 11-4-85; appealed.          |
| 10-17-85      | City of Burlington        | Administrative Order | WM          | Hansen      | Hearing continued.                            |
| 1-23-86       | Osborne Soil Service      | Administrative Order | WM          | Landa       | Hearing continued.                            |
| 5-21-86       | Besch and Rolston         | Administrative Order | SW          | Landa       | Settled.                                      |
| 6-12-86       | ADM - Clinton             | Administrative Order | AIR         | Landa       | Hearing continued.                            |
| 7-30-86       | ISP - Columbus Junction   | NPDES Permit         | WM          | Hansen      | Hearing held 1-14-87; Second hearing 5-21-87. |
| 9-10-86       | Kala and Bogo             | Administrative Order | SW          | Landa       | Negotiating before filing. Removal started.   |
| 10-27-86      | Union County/Wittstock    | Permit Issuance      | FP          | Clerk       | Remanded by District Court.                   |
| 10-28-86      | Lemon Municipal Utilities | Administrative Order | WM          | Hansen      | Negotiating before setting hearing.           |
| 10-29-86      | Handl-Kress Company, Inc. | Administrative Order | AQ/WM<br>SW | Landa       | Hearing continued.                            |
| 11-14-86      | Gale Covered              | Permit Condition     | FP          | Clerk       | Proposed decision 6-18-87.                    |
| 12-03-86      | City of Neuhoe            | Administrative Order | MS          | Hansen      | Hearing continued.                            |
| 12-11-86      | Eloise Reese              | Permit Condition     | FP          | Clerk       | Hearing continued.                            |
| 12-24-86      | Francis Heberlein         | Administrative Order | FP          | Clerk       | Hearing continued.                            |
| 2/ /87        | Aspro, Inc.               | Administrative Order | AQ          | Landa       | Hearing set for 7-9-87.                       |

ENVIRONMENTAL PROTECTION COMMISSION

Notice of Intended Action

455B.412 of the Iowa Code requires the Commission to establish maximum levels of contaminants in oil. One of the contaminants specified in 455B.412 is polychlorinated biphenyl (PCB).

When the rules were developed, it was the intent of the department to allow no detectable amount of PCB in recycled or used oil used as a road oil, dust suppressant or fog seal control. When the rules were developed, (Chapter 143), a detectable limit of 0.001 mg/l was determined to be the applicable detection limit.

Since the rules became effective, the department has learned that the detection limit for PCB in an oily-type waste is not 0.001 mg/l but "approximately 5 mg/l using standard methods and reasonable reliability. The 0.001 mg/l detection level would be attainable for analysis of a drinking water-type liquid only. Rule 143.6(455B) is modified by changing the maximum contaminant level for PCB to be 5 mg/l.

Any interested person may file with the Director written comments on the proposed amendment through September 10, 1987. Interested persons may also provide oral comments at public hearings to be held in Des Moines, Iowa City, and Council Bluffs as follows: Tuesday, September 8, 1987 at 3:00 p.m. in the east half of the fifth floor conference room of the Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa on Wednesday; September 9, 1987 at 3:00 p.m. in the conference room of the Geological Survey

62.4(11) Cement manufacturing point source category. The following is adopted by reference: 40 CFR part 411 as revised on July 9, 1986 (51 FR 24974).

ITEM 9. Amend subrule 62.4(12) as follows:

62.4(12) Feedlots point source category. The following is adopted by reference: 40 CFR part 412 as revised on July 9, 1986 (51 FR 24974).

ITEM 10. Amend subrule 62.4(13) as follows:

62.4(13) Electroplating point source category. The following is adopted by reference: 40 CFR part 413 as amended on November 7, 1986 (51 FR 40420).

ITEM 11. Amend subrule 62.4(18) as follows:

62.4(18) Fertilizer manufacturing point source category. The following is adopted by reference: 40 CFR part 418 as revised on July 9, 1986 (51 FR 24974).

ITEM 12. Amend subrule 62.4(19) as follows:

62.4(19) Petroleum refining point source category. The following is adopted by reference: 40 CFR part 419 as amended on July 12, 1985 (50 FR 28522) and corrected on August 12, 1985 (50 FR 32444).

ITEM 13. Amend subrule 62.4(21) as follows:

62.4(21) Nonferrous metals manufacturing point source category. The following is adopted by reference: 40 CFR part 421 as amended on September 20, 1985 (50 FR 38342) and corrected on October 9, 1985 (50 FR 41144) and December 26, 1985 (50 FR 52775) as revised on February 3, 1987 (52 FR 3230).

ITEM 14. Amend subrule 62.4(22) as follows:

62.4(22) Phosphate manufacturing point source category. The following is adopted by reference: 40 CFR part 422 as revised on July 9, 1986 (51 FR 24974).

ITEM 15. Amend subrule 62.4(24) as follows:

62.4(24) Ferroc alloy manufacturing point source category. The following is adopted by reference: 40 CFR part 424 as revised on July 9, 1986 (51 FR 24974).

ITEM 16. Amend subrule 62.4(26) as follows:

62.4(26) Glass manufacturing point source category. The following is adopted by reference: 40 CFR part 426 as revised on July 9, 1986 (51 FR 24974).

ITEM 17. Amend subrule 62.4(30) as follows:

62.4(30) Pulp, paper and paperboard point source category. The following is adopted by reference: 40 CFR part 430 as amended on December 17, 1986 (51 FR 45232).

ITEM 18. Amend subrule 62.4(31) as follows:

62.4(31) Builders paper and roofing felt segment of the builders paper and board mills point source category. The following is adopted by reference: 40 CFR part 431 as amended on December 16, 1986 (51 FR 45232).

ITEM 19. Amend subrule 62.4(32) as follows:

62.4(32) Meat products point source category. The following is adopted by reference: 40 CFR part 432 as amended on July 9, 1986 (51 FR 24974).

ITEM 20. Amend subrule 62.4(33) as follows:

62.4(33) Metal finishing point source category. The following is adopted by reference: 40 CFR part 433 as amended on November 7, 1986 (51 FR 40420).

ITEM 21. Amend subrule 62.4(39) as follows:

62.4(39) Pharmaceutical manufacturing point source category. The following is adopted by reference: 40 CFR part 439 as amended on December 16, 1986 (51 FR 45094).

ITEM 22. Amend subrule 62.4(55) as follows:

ENVIRONMENTAL PROTECTION COMMISSION

ITEM

14

DECISION

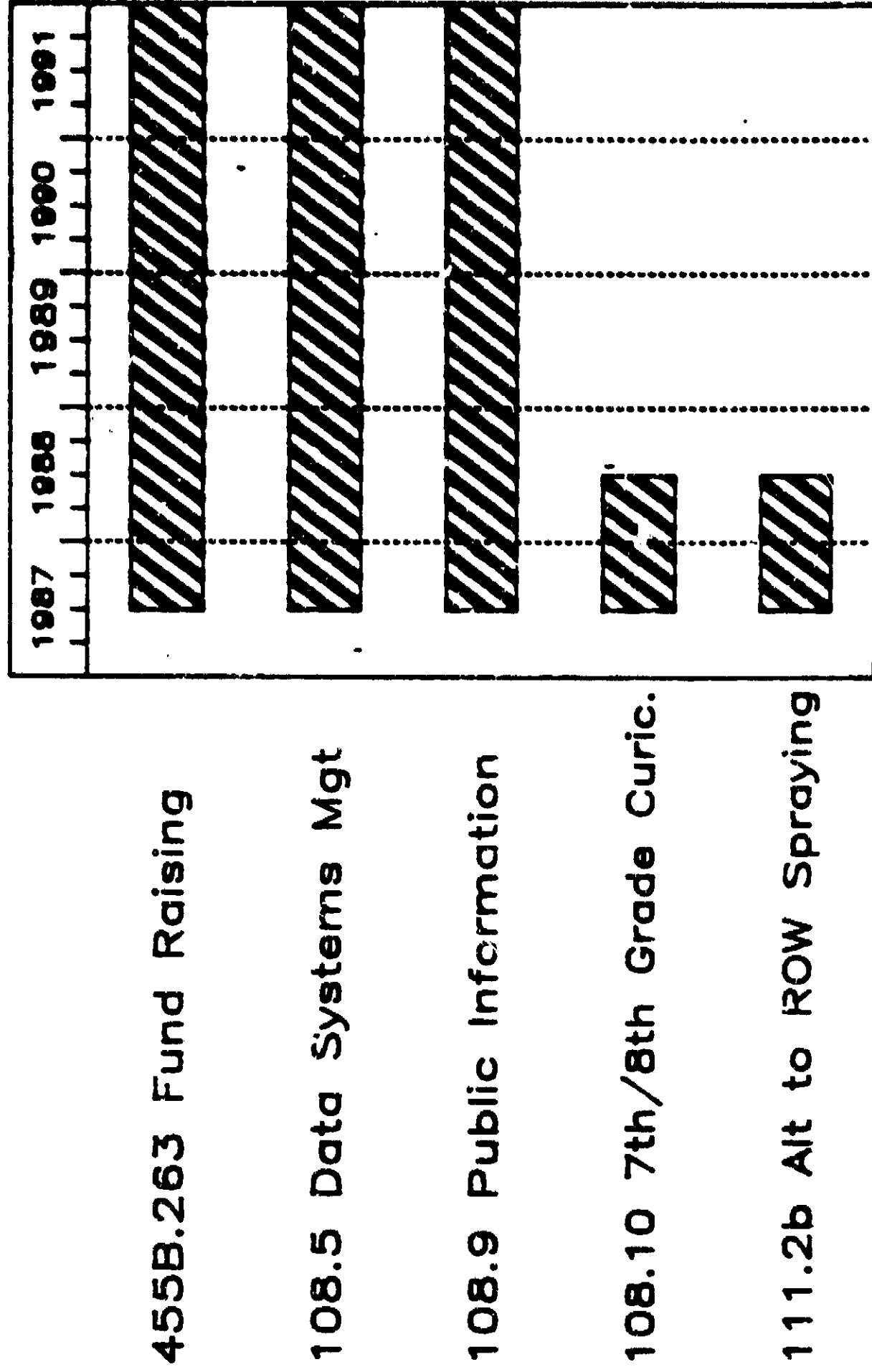
The Department requests approval to enter into a contract with the University of Iowa Hygienic Laboratory for sample collection and analytical work associated with the Department's pretreatment program. The contract will run from the date of execution (approximately August 1, 1987) until September 30, 1988 and will be funded with Wastewater Compliance 104(b)(3) monies.

Specifically the \$50,000 contract will require that UHL analyze samples of influent, effluent and sludge for priority pollutants at each of the 19 Publicly Owned Treatment Works (POTWs) in Iowa with an approved pretreatment program. Sample results will be used by the Department in conjunction with the POTWs to determine if additional controls are needed to prevent pass-through of pollutants, interference with treatment processes or to protect sludge disposal options.

Stan Kuhn  
June 29, 1987

(143)

# Other DNR Activities Related to 1987 Groundwater Bill Coordination and Information Division



ENVIRONMENTAL PROTECTION COMMISSION

ITEM 17A

INFORMATION

PROPOSED CONTESTED CASE DECISION -- GALE CONRAD

On August 6, 1984, the Water, Air and Waste Management Commission considered unauthorized channel change and levee construction on property owned by Gale Conrad in Mahaska County, and authorized referral to the Attorney General. In May, 1985, the Mahaska County District Court ordered Mr. Conrad to submit an application for after-the-fact approval, including certified engineering plans. Mr. Conrad complied, and on October 10, 1986 the Department issued Floodplain Development Permit No. FP86-159. The permit authorized the channel change, but imposed a number of remedial conditions including the establishment of fish and wildlife habitat and partial degradation of the levee.

Mr. Conrad appealed, primarily to contest the permit conditions, and a contested case hearing was conducted on April 14 and 16, 1987. Administrative Hearing Officer Amy Christensen Couch has rendered the attached proposed decision which affirms the Department's issuance of the floodplain permit.

Mr. Conrad may appeal this proposed decision to the Commission if he chooses. In the absence of an appeal, the Commission may decide on its own motion to review the proposed decision. If there is no appeal or review of the proposed decision, it automatically becomes the final decision of the Commission.

Randy Clark  
June 25, 1987

(125)



- a. An area of seismic risk category of four (4) or greater;
- b. A one hundred (100)-year floodplain;
- c. A dam hazard area;
- d. An area with less than one hundred (100) feet of aquitard between the base of operation and the subjacent aquifer;
- e. One (1) mile of a geologic hazard structure;
- f. One (1) mile of a karst area;
- g. One (1) mile of an area of past or present surface or underground mining activity;
- h. One (1) mile of wetland;
- i. Any protected basin; or
- j. Ten (10) miles of any nuclear power plant.

152.3(2) Quantitative criteria. The quantitative criteria and corresponding values which are to be applied are in Table 1 as follows:

Table 1

|                                     | Value Assigned   |   |                 |
|-------------------------------------|--|---|-----------------|
|                                     | <u>5 points</u>  | <u>2 points</u>   | <u>Excluded</u> |
| Mineral and Energy Resources        | No significance present within one mile                                | Significant presence with perpetual ban on recovery                     | ---             |
| Drinking Water Sources              | No sources within one mile   | Sources permanently closed and alternative water source provided        | ---             |
| Critical Wildlife Habitats          | No habitat within one mile   | Permanent buffer and no interference                                    | Interference    |
| Conservation Areas                  | No area within one mile  | Permanent buffer and no interference                                    | Interference    |
| Cultural Areas                      | No area within one mile  | Permanent buffer and no interference                                    | Interference    |
| Population Areas                    | No area within one mile  | Permanent buffer and no interference                                    | Interference    |
| Prime Farmland                      | Less than 25% prime farmland   | More than 25% prime farmland  | ---             |
| Maintenance with RARE               | No significant impact predicted  | Little significant impact predicted                                     | ---             |
| Prevalence of Significant Detention | Good data available and sufficient increments                          | Little data available but increment available                           | ---             |
| Transportation Routes               | Within 5 miles of major highway, 10 miles of a rail line, and 50 miles | Beyond 5 miles from major highway, 10 miles of a rail line, or 50 miles | ---             |

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## B. OVERVIEW OF METHODOLOGY

The Department will develop design and operation standards for the storage facility and any other management methods proposed. These standards will mandate emission limits, operating procedures and design standards to provide additional safeguards for protecting public health and the environment. Design and operation standards will be addressed in reports to be prepared later.

The subject of this report will be the siting criteria. These criteria are designed to assure that the facility be located at a site which will (in order of priority):

- a. protect public health
- b. protect the environment
- c. comply with regulations
- d. comply with permitting and licensing requirements
- e. reduce costs to the state
- f. avoid engineering and socioeconomic problems that would prevent the facility from being built

### 1. Three Stage Exclusionary Approach

In order to consider the entire state and efficiently use existing resources, the Department recommends that the site selection process be carried out in three stages.

In Stage I the entire state would be examined by such broad criteria as geological factors. These criteria are exclusionary; when one or more of the factors are found, the area would be excluded from further consideration. Stage I exclusionary screening would use readily available data to eliminate large areas of the state from further consideration.

Stage II would involve looking at smaller areas remaining after Stage I screening. Readily available data would be applied in closer examination of smaller areas. Stage II criteria are quantifiable; they can be used to assign values to specific sites. By ranking sites according to value, the best sites can be selected.

Stage III would involve looking very closely at a few small sites that have not been excluded by the first two levels of screening. Detailed on-site studies would be applied. Factors that could prevent the facility from being built would be examined. As a result, the best site for a hazardous waste management facility would be selected.

These screening steps are discussed in more detail in Chapter D.

### 2. Level of Information Needs

This siting criteria proposal is designed in three separate stages. Stage I and II screening would require general and readily available information. Detailed, site-specific information would be needed for Stage III screening.

The following level of information is proposed for each stage:

**TABLE 2. HAZARDOUS WASTE FACILITY SITING CRITERIA**  
**- Continued -**

| <u>Criterion</u>                            | <u>Favorable</u>   | <u>Potentially<br/>Favorable</u>   | <u>Unfavorable</u> |
|---|--|--|--------------------|
| 12. Drinking Water Sources                  | No sources within one mile   | Source permanently closed and alternative water source provided                          | --                 |
| 13. Critical Wildlife Habitats              | No habitat within one mile   | Permanent buffer and no interference   | Interference       |
| 14. Conservation Areas                      | No area within one mile  | Permanent buffer and no interference   | Interference       |
| 15. Cultural Areas                          | No area within one mile  | Permanent buffer and no interference   | Interference       |
| 16. Population Areas                        | No area within one mile  | Permanent buffer and no interference   | Interference       |
| 17. Prime Farmland                          | Less than 25% prime farmland   | More than 25% prime farmland   | --                 |
| 18. Nonattainment with NAAQS                | No significant impact predicted  | Little significant impact predicted  | --                 |
| 19. Prevention of Significant Deterioration | Good data available and sufficient increments available                                      | Little data available but increment available  | --                 |
| 20. Transportation Routes                   | Within 5 miles of major highway, 10 miles of rail service and 50 miles of interstate highway | Beyond 5 miles from major highway, 10 miles of rail and 50 miles from interstate highway | --                 |
| 21. Proximity to Major Generators           | Within 50 miles of major generators  | Beyond 50 miles from generators  | --                 |
| 22. Utilities and Services                  | Access to services available   | Sites needing services extended  | --                 |

areas for all species. Habitat areas include those recognized by federal and state conservation agencies.

The purpose of this criterion is to protect habitat areas and avoid potential problems with getting necessary permits to operate a facility. Any site that is in, or interferes with, a habitat area would be rated as unacceptable and be excluded from further consideration.

A site that is not within 1 mile of a habitat area would be rated as favorable. A site within 1 mile of a habitat area that has sufficient permanent buffer area to prevent interference with the habitat area would be rated as potentially favorable.

Information on critical wildlife areas is available from DNR.

#### 14. Conservation Areas

This criterion is proposed to protect conservation areas. For the purpose of this criterion, "conservation area" means parks, recreation areas, wildlife areas, forests, prairies, natural areas, or scenic areas managed by a government agency or an organized conservation group on or before the date of enactment of these rules. The purpose of this criterion is to protect conservation areas, allow free use by people, and avoid problems in getting the necessary permits to operate a facility.

No site shall be considered that is in, or would interfere with, a conservation area. The active portion of a facility shall not be visible from any conservation area; however, natural screening might be used to shield the facility.

A site that is not within 1 mile of a conservation area would be given a favorable rating for this criterion. A site within 1 mile of a conservation area that has a permanent buffer area of sufficient size to prevent interference with a conservation area, would be rated as potentially favorable. A site located in, or that interferes with, a conservation area, would be excluded from further consideration.

Information on conservation areas is available from DNR.

#### 15. Cultural Areas

For the purpose of this criterion, "cultural area" means any property of recognized archaeological, architectural, cultural or historical significance. "Recognized" is defined as listed in or eligible for the National Register of Historic Places or listed on significant state site records on file at the Office of Historic Preservation or Office of the State Archaeologist. Archaeological property should include, but not be limited to, ancient mortuary sites.

No facility should be sited in, or interfere with, the use of a cultural area. The active portion of a facility should not be visible from a cultural area. However, natural or architectural screening might be used to conceal the view of the facility.

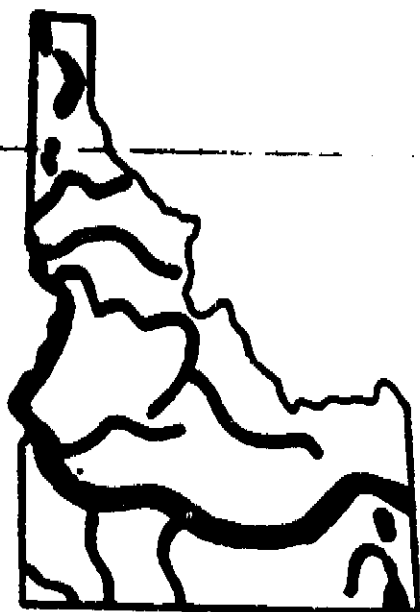


Figure 1. Flood Plains Excluded



Figure 2. Flood Plains and Seismic Risk Areas Excluded



Figure 3. All Exclusionary Criteria Applied

ENVIRONMENTAL PROTECTION COMMISSION

ITEM 7

INFORMATIONAL

MONTHLY REPORTS

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

Allan Stokes  
July 6, 1987

July 1, 1987

TO: KPC

FROM: Mike Murphy

RE: Enforcement Report Update

The following new enforcement actions were taken last month:

| Name, Location and Field Office Number  | Program        | Alleged Violation                     | Action        | Date    |
|---|----------------|---------------------------------------|---------------|---------|
| Country Corner Cafe,<br>Pacific Junction (1)  | Drinking Water | Failure to monitor bacteria & nitrate | Order/Penalty | 6/3/87  |
| James T. MacDade, JTM Industries, Inc. and Delbert D. Leamer<br>Pleasant Valley (6) | Solid Waste    | Open dumping                          | Order/Penalty | 6/9/87  |
| Rosey's DMT Ballroom<br>Rolfe (3)   | Drinking Water | Failure to monitor bacteria           | Order/Penalty | 6/16/87 |
| Dows Golf Course<br>Dows (2)  | Drinking Water | Failure to monitor bacteria           | Order/Penalty | 6/16/87 |
| Terra International<br>Sergeant Bluff (3)   | Wastewater     | Effluent Violations                   | Order         | 6/18/87 |
| Golden Slipper<br>Duniap (4)  | Drinking Water | Failure to monitor bacteria           | Order/Penalty | 6/18/87 |
| Glen Mark Subdivision<br>2 Addition<br>Burlington (6)                               | Drinking Water | Monitoring & reporting bacteria       | Order/Penalty | 6/18/87 |
| Olsen's Water Supply<br>Blairsburg (2)  | Drinking Water | Failure to monitor nitrate            | Order/Penalty | 6/18/87 |
| John A. McFedries<br>Davenport (6)  | Air Quality    | Open burning                          | Order/Penalty | 6/18/87 |
| Donald R. Wilson and<br>Larry L. Pingel<br>Fort Dodge (2)                           | Solid Waste    | Open dumping                          | Order/Penalty | 6/18/87 |

MEW:rls/CIW182R02.01



**July, 1967**

**12/20/2012 02**

Bureau, 125 N. Capitol Street, Iowa City, Iowa; and on Thursday, September 10, 1967 at 3:00 p.m. in the Community Hall Room, 205 South Main, Council Bluffs, Iowa.

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62.4(55) Pesticide chemicals manufacturing point source category. The following is adopted by reference: 40 CFR part 455 as revised on December 15, 1986 (51 FR 44911).

ITEM 23. Amend subrule 62.4(61) as follows:

62.4(61) Battery manufacturing point source category. The following is adopted by reference: 40 CFR part 461 as amended on August 28, 1986 (51 FR 30814).

ITEM 24. Amend rule 62.5 (455B) to read as follows:

567--62.5(455B) Federal toxic effluent standards. The following is adopted by reference: 40 CFR 129, revised as of July 1, 1986.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Larry J. Wilson, Director

(RUL/EP62)

ENVIRONMENTAL PROTECTION COMMISSION

ITEM 15

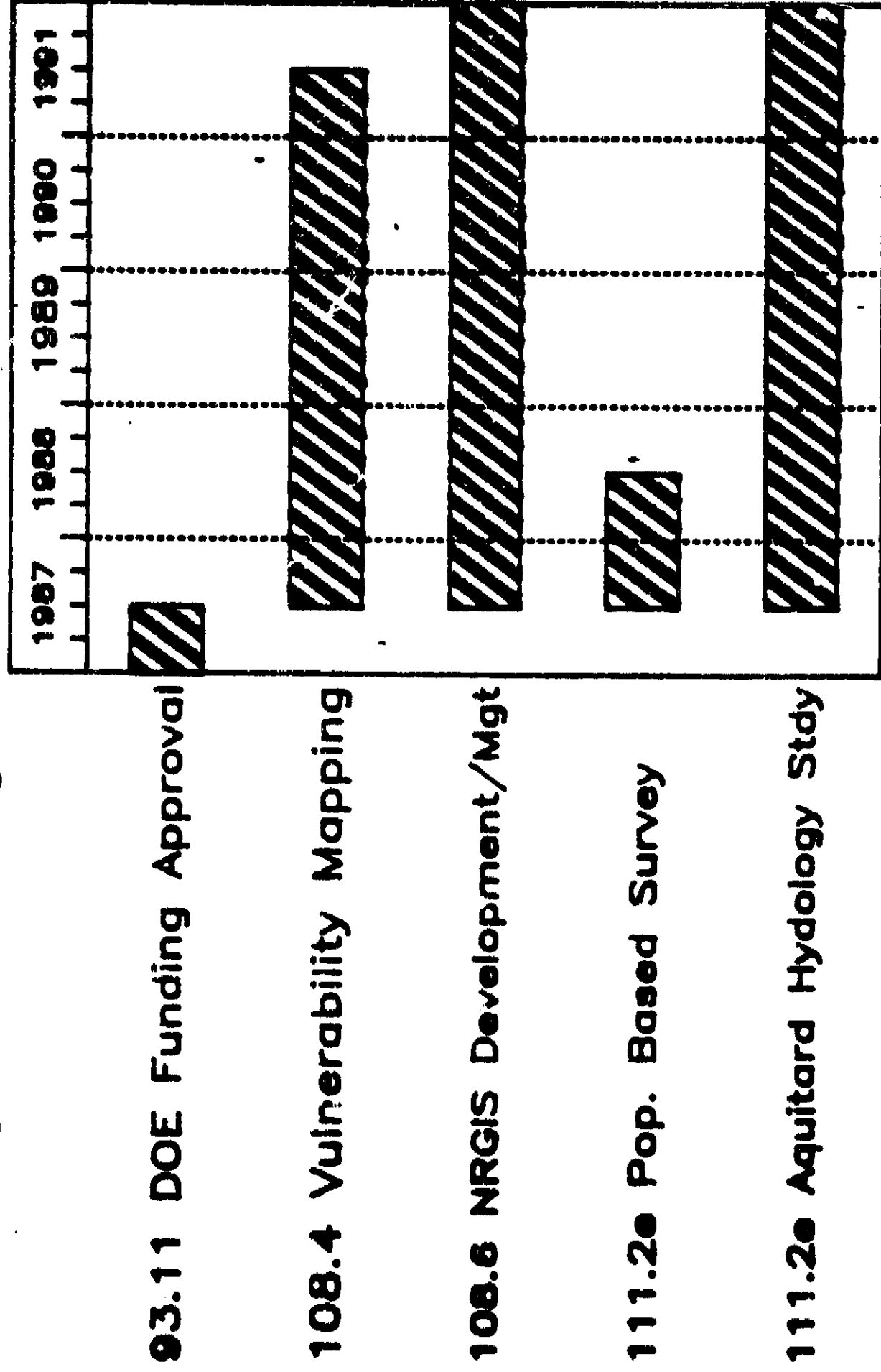
DECISION

The Department requests approval to amend the FY 87 University of Iowa Hygienic Laboratory contract to provide for \$78,600 worth of sample analysis services. The additional funds will be used primarily in supporting increased analyses of organics, particularly commonly used herbicides, in the groundwater monitoring program. This will provide needed information on the extent of groundwater contamination by organics, and bring the groundwater monitoring program more into conformance with this department's Groundwater Monitoring Strategy. The analytical work will be funded 100 percent by federal wastewater grant monies.

Stan Kuhn  
June 29, 1987

(142)

# Other DNR Activities Related to 1987 Groundwater Bill Energy & Geological Resources Division



Before the Iowa Department of Natural Resources

In the Matter of:

GALE CONRAD

) Docket No. 86-CC-32

) DIA No. 870011

) Findings of Fact,

) Conclusions of Law,

) Decision and Order

This case involves construction on the Middle Creek/North Skunk River flood plain. Prior to the beginning of this particular administrative appeal, the parties were involved in litigation in Mahaska County District Court involving the same flood plain construction. On May 6 and May 28, 1985 the Mahaska County judge issued orders in which he ruled that: "Defendant is the owner of certain real estate located in a drainage area with a creek running through it. A previous owner had applied for and been denied a permit to construct a new channel. Defendant testified water flowed in an old channel when he purchased the property; Defendant filled the old original channel and constructed levees and removed others in the flood plain of the North Skunk River and/or Middle Creek. The new channel is also in the flood plain. Defendant has not applied for the required permit from Plaintiff."

The judge ordered Mr. Conrad to "have a registered professional engineer prepare complete engineering plans and specifications for the unauthorized channel change and levees and Defendant is further Ordered to file a proper verified application for the project with the certified engineering plans and specifications attached with the Department . . ."

Mr. Conrad then filed an after-the-fact Application for a Permit to Construct in a Flood Plain on July 22, 1985.

Jeff Simmons and Jack Riessen of the Department of Natural Resources (hereinafter Department) prepared a Flood Plain Project Summary Report dated September 29, 1986. The Department issued Flood Plain Development Permit Number PP86-159 on October 10, 1986, and mailed it October 16, 1986. The permit authorized a modified channel change with certain conditions attached. Mr. Conrad filed Notice of Appeal on November 12, 1986, in which he appealed the conditions attached to the permit.

On January 2, 1987, the Department issued letters informing adjoining landowners of their right to intervene in the appeal.

On December 17, 1986, the undersigned hearing officer issued the Notice of Hearing. Mr. Conrad filed his Petition on January 7, 1987. The Department filed its Answer on January 27, 1987.

|                                  | Interstate highway                  | From interstate highway            |     |
|----------------------------------|-------------------------------------|------------------------------------|-----|
| Proximity to<br>Major Generators | Within 50 miles major<br>generators | Beyond 50 miles from<br>generators | --- |
| Utilities and<br>Services        | Accessible services<br>available    | Sites needing services<br>extended | --- |

152.3(3) Methodology. The methodology to be used by the siting authority in applying these criteria is contained in the report "Hazardous Waste Management Facility Siting Criteria and Methodology" which is adopted by reference. The criteria listed in this rule shall be applied in three steps as follows:

- a. Step 1. The exclusionary criteria shall be applied to the entire state. Step 2 shall be applied to those areas remaining.
- b. Step 2. The quantitative criteria shall be applied to the nonexcluded areas identified in step 1. The values in table 1 shall be applied and the potential sites ranked in order of priority.
- c. Step 3. The top rated potential sites shall be subject to detailed evaluation. The best site for the facility shall be selected.

(EP152.MIN)

## A. INTRODUCTION

### 1. Background

In July, 1983, Governor Terry E. Branstad mandated, by Executive Order Number 3, that the Commission submit recommendations to the Legislature for managing hazardous wastes in Iowa.

The resulting Hazardous Waste Management Plan was submitted to the Legislature and the Governor in April, 1985.

Two recommendations of this plan were:

- a) that an above-ground facility for the long-term storage of hazardous wastes should be constructed; and
- b) that detailed siting criteria for locating this facility should be established.

This introduction will explain why these two recommendations were made.

### 2. Need for Facility

The need for a management facility was discussed in the Hazardous Waste Management Plan. In preparing this plan, the Department examined how hazardous wastes are generated and managed in Iowa and projected management needs and quantities to be generated through the year 2000.

The Department studied four methods by which Iowa's hazardous wastes are currently managed:

- a. waste reduction and elimination
- b. reuse, recycling and recovery
- c. treatment and incineration
- d. storage and land disposal

Having defined the current situation and made projections for the future, the Department reached the following conclusions, as presented in the Hazardous Waste Management Plan:

- a. On-site and commercial treatment and disposal facilities will remain available to Iowa generators for waste treatment methods a, b and c. (above) according to market surveys and discussions with other states.
- b. Category d wastes, which have traditionally been land disposed, will be a problem in the future because landfills permitted under the Federal Resource Conservation and Recovery Act (RCRA) will be less available. This shortage of landfills was predicted in 1984 by Dr. John Skinner, then director of the RCRA program at the Environmental Protection Agency (EPA). Skinner concluded that 70% of all land disposal facilities would close due to more stringent requirements of the RCRA amendments of 1984.



Stage I -- Exclusionary Criteria. Statewide knowledge of Iowa's geology, mining activities and water resources would be needed. This information is generally available from the Department of Natural Resources (DNR).

Stage II -- Quantitative Criteria. Regional knowledge of Iowa's geology, natural resources, environmental resources, and socioeconomics would be needed. This information is generally available from the DNR, the Department of Cultural Affairs, and the Office of the State Archaeologist.

Stage III -- Final Site Analysis. This stage would require site-specific information for a small number of sites. This information could be collected by examining the sites, using existing data, and working with the agencies identified in Stage II.

### 3. Interdisciplinary Approach

The proposed siting process would be conducted by an interdisciplinary group of scientists and engineers. This group would be made up of individuals with experience and specific knowledge in hydrology, geology, biology, natural resources, history, archaeology, air and water resources, and other relevant disciplines.

Senate File 463 directed the Department to: a) adopt rules establishing siting criteria, and b) submit a plan for siting and construction of the facility. However, SF 463 did not authorize the Department (or any other party) to actually apply the criteria, select and purchase the site, or build the facility.

The proposed criteria and methodology could be used by whoever actually applies the siting criteria. The siting team could be assembled from staff of this Department, from other State agencies, or from private consulting firms.

### 4. Public Participation

Participation by the public would be essential to the successful siting of a facility. The Department has and will continue to encourage public participation and comment and keep the public informed on hazardous waste activities.

Public participation in relation to hazardous waste management dates back to 1983. A Select Advisory Panel of citizens worked closely with Department staff to develop the Hazardous Waste Management Plan. A series of public meetings provided opportunities for the general public to participate in the development of the plan.

To solicit additional comments from the interested public and government agencies, an informal advisory group (Table 1) was selected to review and comment on initial drafts of the criteria.

### 1. Seismic Risk

This criterion is related to the seismic stability of a given site. The natural processes affecting such stability should not occur at a frequency or extent that can alter the geological integrity of a site or its ability to isolate contaminants from the groundwater.

Seismic risk is an accepted measure of the likelihood of structural damage resulting from seismic events for specific areas. Seismic risk categories, as developed by the National Oceanographic and Atmospheric Administration (NOAA), include 0 (no risk) to 4 (severe risk). For the purposes of this criterion, a site in risk category 1 would be considered favorable, a site in categories 2 and 3 potentially favorable, and a site in category 4 unfavorable. Areas within 1 mile of category 4 risk factor will be excluded from further consideration.

The information necessary to evaluate sites for this criterion is available from the Iowa Department of Natural Resources (DNR).

### 2. Geologic Hazard Structures

This criterion is designed to prevent ground water contamination through geologic structures that might serve as avenues of transport. For the purposes of this criterion, "geologic structures" include faults, fracture zones, and other features that provide pathways to or through groundwater aquifers.

The protection of ground water is related to the protection of public health. For this reason, no site shall be established within 1 mile of a geologic structure. The 1 mile separation distance was selected as the distance necessary to sufficiently avoid major stressed areas around the structure.

Information about geologic hazard structures is criterion is available from DNR.

### 3. Karst Areas

Karst areas occur where limestone has been partially dissolved to form fractures, caves and sinkholes. These breaks in the bedrock provide potential pathways for ground water contamination.

To protect ground water and thereby protect public health, the Department proposes that no facility be sited within 1 mile of a sinkhole area or within a known or potential karst region with less than 100 feet of overburden material.

Information about Karst areas is available from DNR.

### 4. Mining Activity

This criterion is designated to prevent ground water contamination in areas of past underground or surface mining, major exploration/production drilling or mineral recovery. Areas where materials have been removed or ex-

This criterion is proposed to protect cultural areas, to allow free use by people, and to avoid problems with getting the necessary permits to operate a facility.

An area not within 1 mile of a cultural area should be given a favorable rating for this criterion. An area located within 1 mile of a cultural area that has sufficient buffer to permanently shield the area should be rated as potentially favorable. An area located in, or interfering with, a cultural area should be excluded from further consideration.

Information on cultural areas is available from the Department of Cultural Affairs and the Office of the State Archaeologist.

#### 16. Population Areas

For the purpose of this criterion, "populated area" means any commercial facility, school, church, medical facility, elderly housing, correctional facility, mobile home park or incorporated residential area. The purpose of this criterion is to protect people from any nuisance caused by proximity to a facility.

The active portion of a facility should not be located within 1 mile of any populated area or within one-fourth mile of any occupied residence in a non-incorporated area. However, the distance might be reduced with an appropriate buffer area.

Sites located farther than the separation distances should be given a favorable rating for this siting criterion. Sites located closer than the separation distances with a permanent buffer of sufficient size to prevent interference with normal activities, should be given a potentially favorable rating.

Information about population areas can be gathered from maps and site surveys.

#### 17. Prime Farmland

A facility should not be located in prime farmland. The purpose of this criterion is to protect prime farmland from conversion to non-farm uses and to reduce problems with getting permits to operate a facility.

Prime farmland has been identified by the USDA Soil Conservation Service (SCS) through detailed soil surveys. Areas containing less than 25% prime farmland should be rated favorably. Areas with greater than 25% prime farmland should be rated as less than favorable.

#### 18. Nonattainment Areas

This criterion is proposed to consider the impact of potential air emissions. Air emissions from the planned facility would initially be of little significance. However, an incinerator might be installed and operated at a later date. To assure that permits for an incinerator could be obtained, the impact of an incinerator on the ambient air quality should be considered.

## **b. Exclusionary Criteria**

The following exclusionary criteria would be used in Stage I screening:

- 1) seismic risk
- 2) geologic hazardous structures
- 3) karst areas
- 4) mining activity
- 5) flood plains
- 6) dam hazard areas
- 7) wetlands
- 8) protected basins
- 9) aquifers
- 10) nuclear power plants

## **c. Demonstration of Stage I Screening**

A map of Idaho will be used to demonstrate how Stage I screening would be done. This is to avoid speculation on where in Iowa a site might be located.

Figure 1 shows a map of Idaho with flood plain areas identified. For this demonstration, flood plain areas are to be excluded from further consideration. Therefore, all areas that are blacked out will be excluded.

Figure 2 shows a map of seismic risk areas that has been lain over the map of flood plain areas. Seismic risk areas are also be excluded from further consideration.

Figure 3 shows the end result of Stage I screening. All remaining exclusionary criteria have been mapped and placed over the original map. The blacked-out areas represent areas where the potential for water contamination is greatest. Therefore, these areas are excluded from further consideration.

As this example shows, Stage I screening should be applied to a large area, such as an entire state. By using readily available data, unsuitable areas can be excluded. The remaining smaller areas can then be examined for other factors.

## **2. Stage II -- Quantitative Criteria**

The objective of Stage II of the proposed siting process is to evaluate and rank all the candidate areas selected in Stage I. Stage II screening would also involve the overlay mapping technique. All candidate areas would be examined and screened for the major categories listed under Stage II Criteria.

Stage II screening would use criteria selected to provide for the protection of public health, protection of the environment, reduction of costs to the state, compliance with regulations, and compliance with permit and licensing requirements.

Iowa Department of Natural Resources  
Environmental Protection Commission  
RULEMAKING STATUS REPORT  
July 1, 1987

| PROPOSAL  | DRAFT TO COMMISSION | NOTICE PUBLISHED | RULES REVIEW COMMITTEE | HEARING                         | SUMMARY OF COMMENTS & RECOMMENDATIONS TO COMMISSION | RULES ADOPTED | RULES PUBLISHED | RULE EFFECTIVE |
|---|---------------------|------------------|------------------------|---------------------------------|---|---------------|-----------------|----------------|
| 1. Ch. 23 -<br>SO <sub>2</sub>                          | 5/28/87             | 6/17/87          | 7/8/87                 | 7/8/87<br>7/8/87<br>7/10/87     |   |               |                 |                |
| 2. Ch. 48, 49 -<br>Fluoride WQ                          | 5/28/87             | 6/17/87          | 7/8/87                 | 7/8/87<br>7/8/87<br>7/10/87     |   |               |                 |                |
| 3. Ch. 50 - 52<br>Water Allocation<br>(Conservation)    | 5/28/87             | 6/17/87          | 7/8/87                 | 7-8-87<br>7-8-87<br>7-10-87     |   |               |                 |                |
| 4. Ch. 62 -<br>Effluent Standards                       | 7/21/87             |                  |                        |                                 |   | 9/21/87       | 9/12/87         | 9/16/87        |
| 5. Ch. 85 -<br>Feed lots                                | 11/12/86            | 12/83/86         | 1/8/87<br>7/8/87       | 12/23/86<br>12/30/86<br>1/85/87 | 5/20/87   | 5/20/87       | 6/17/87         | 7/22/87        |
| 6. Ch. 109, 103 -<br>Landfill Groundwater<br>Monitoring | 5/16/87             | 5/28/87          | 6/10/87                | 6/8/87<br>6/10/87<br>6/11/87    |   |               |                 |                |
| 7. Ch. 135 -<br>Underground Tank Monitoring             | 12/15/86            | 1/14/87          | 2/18/87<br>6/10/87     | 2/83/87<br>2-85/87<br>2/10/87   | 4/21/87   | 4/21/87       | 5/20/87         | Delayed        |
| 8. Ch. 143 -<br>Used Oil                                | 6/17/87             | 9/12/87          |                        |                                 |   |               |                 |                |

\*Rejected  
DNR:reg/CJ1337.02.01

July 1, 1987

TO: TPC

FROM: Mike Murphy

RE: Enforcement Report Update

The following new enforcement actions were taken last month:

| Name, Location and Field Office Number | Program                 | Alleged Violation    | Action        | Date    |
|--|-------------------------|----------------------|---------------|---------|
| City of Shenandoah (4)                 | Air Quality             | Open burning         | Order/Penalty | 6/18/87 |
| City of Leland (2)                     | Air Quality             | Open burning         | Order         | 6/18/87 |
| Cooper Automotive<br>Minburn (5)       | Wastewater              | Prohibited Discharge | Order         | 6/18/87 |
| Trausch Co., Inc.<br>Carroll (4)       | Hazardous<br>Conditions | Remedial Action      | Order/Penalty | 6/18/87 |
|  | Wastewater              | Prohibited Discharge | Order/Penalty |         |

ENVIRONMENTAL PROTECTION COMMISSION

ITEM 5

INFORMATIONAL

STATUS OF THE CHICAGO CHANNEL CHANGE PROJECT

During the week of June 22, essentially all the restoration work in the Chicago Wildlife Area was completed. Department staff visited the site on June 25 and determined that, except for a small amount of riprap yet to be placed and the seeding, the work was completed in accordance with Department directives.

Since the work has essentially been completed, no additional status reports will be forthcoming. A staff member will make an additional site visit later this year to insure that the seeding has been performed.

Stokes

7-6-87

(126)

367--143.6(455B) Maximum contaminant levels for used or recycled oils. A used or recycled oil shall not be used for the purpose of road oiling, dust control, or weed control when analysis of the oil under 367--143.3(455B) indicates that: polychlorinated biphenyls are present at a level of 0.001  $\mu$ g/l or greater or, the mobile lead concentration is 5 mg/l or greater or, the measured flashpoint is 140°F (60°C) or lower.

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Data

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Larry J. Wilson, Director

(EP143.6B2/ae)



ENVIRONMENTAL PROTECTION COMMISSION

ITEM 12

DECISION

CHAPTER 43 -- WATER SUPPLY GRANTS AUTHORIZED UNDER 455B.309

The Commission is requested to rescind the Notice of Intended Action for Chapter 43 of the IAC previously approved by the Commission on May 20, 1987.

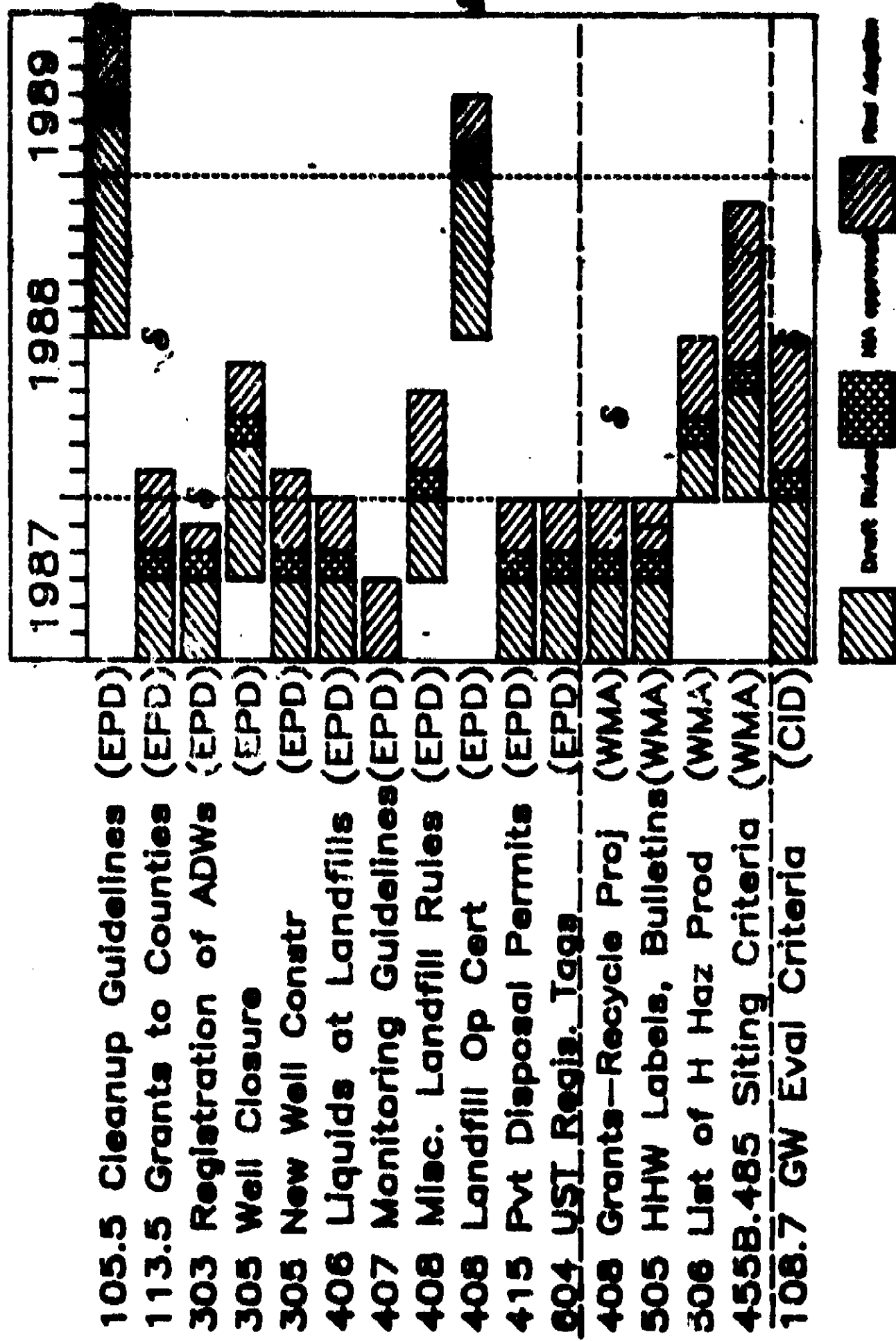
Chapter 43 of IAC was proposed to implement the award of grants to water supplier for the abatement or elimination of threats to public health and safety resulting from contamination of a water supply source as authorized under Iowa Administrative Code Chapter 455B, Subsection 309.4.

Section 116 of House File 631, Seventy-Second General Assembly signed June 9, 1987 repealed Iowa Code section 455B.309 (1987). Accordingly, the authorization to proceed with this grant program no longer exists.

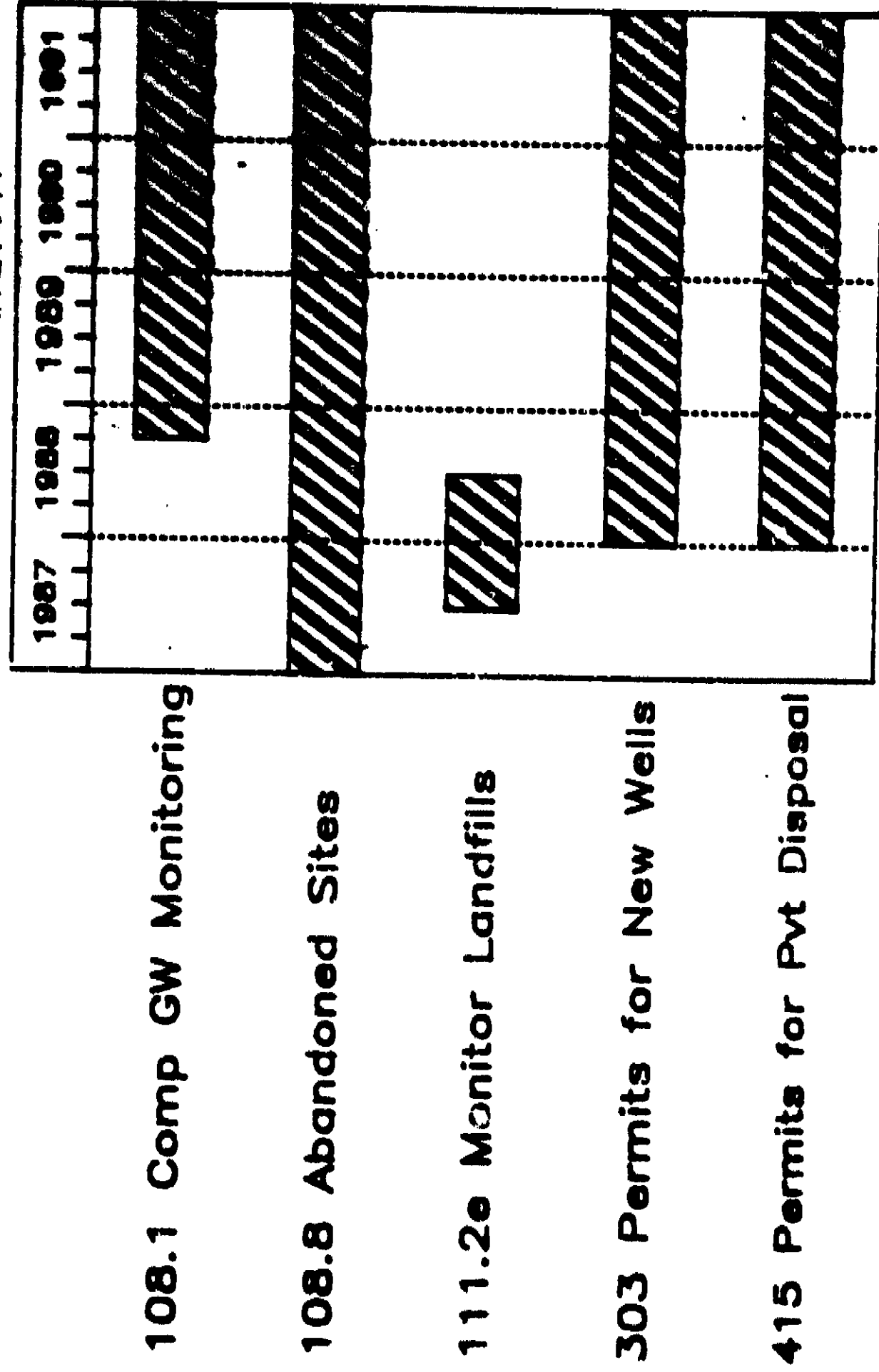
Roy G. May  
June 10, 1987

(I18)

# DNR Activities - Rulemaking 1987 Groundwater Bill



# Other DNR Activities Related to 1987 Groundwater Bill Environmental Protection Division



Mr. Conrad moved to continue the hearing, which motion was granted. The hearing was continued to March 10, 1987. The hearing was again continued to March 30, 1987.

The Department filed a Request for Prehearing Conference and Disclosure on March 12, 1987. Mr. Conrad filed a Request for Prehearing Conference and Disclosure on March 16, 1987. A telephone prehearing conference was held on March 20, 1987 at 10:00 a.m.

The undersigned hearing officer issued an Order continuing the hearing to April 14, 1987. The Department filed an Amendment to its Witness and Exhibit List on March 26, 1987.

On March 25, 1987, the Department filed a Motion In Limine with Attachments. Mr. Conrad filed a Resistance to the Motion In Limine on April 2, 1987. On April 13, 1987, the undersigned hearing officer issued an Order which granted the Motion in Limine except for the presentation of new evidence relating to the issue of siltation of the old channel.

The hearing was held on April 14, and April 16, 1987 in the fifth floor conference room, Wallace State Office Building, 900 E. Grand, Des Moines, Iowa. Representing the parties were Michael W. Broerman, counsel for Mr. Conrad, and Randall Clark, counsel for the Department. The undersigned hearing officer presided.

At the hearing, Mr. Conrad objected to the Ruling on the Motion in Limine for the reasons raised in his Resistance. He argued that once the application was filed, the resulting investigation showed that Mr. Conrad did not need a permit for his project. In support of his argument he cited the Army Corps of Engineers' decision. Mr. Conrad made an offer of proof that Pat McAdams, a geologist, would have testified concerning two photographs showing the new channel had been opened between 1978 and 1980, and that Bill Goodman would have testified that the new channel was constructed in 1979; and an affidavit by Malcolm Livingston that he pushed dirt in the old creek to get to the other side of the field.

The undersigned hearing officer renewed the Ruling on the Motion in Limine at the hearing.

#### THE RECORD

The evidentiary record in this case includes the above motions, pleadings, letters and Orders; the recorded testimony of the witnesses, and the following Exhibits:

- Conrad Exhibit 1 - Map, admitted for limited purpose
- Conrad Exhibit 2 - Map
- Conrad Exhibit 3 - Not admitted
- Conrad Exhibit 4 - Aerial photograph 1983
- Conrad Exhibit 5 - Aerial photograph 1984

- Conrad Exhibit 6 - Photograph of trees along new channel
- Conrad Exhibit 7 - Anderson engineering plan
- Conrad Exhibit 8 - Gale Conrad engineering plan
- Conrad Exhibit 9 - Copy of page from Exhibit 8 showing levee
- Conrad Exhibit 10 - Two pages copied from the Mahaska County soil survey plus those pages of the original book plus the legend on the back of the colored General Soil Map of Mahaska County contained in the book
- Conrad Exhibit 11 - List of calculations by Mr. Simmons - pencil and black ink only
- Conrad Exhibit 12 - Affidavit of Edwin L. Moore
- Conrad Exhibit 13 - Affidavit of W. Harland Jones
- Conrad Exhibit 14 - Several letters dated April 7, 1978
- Conrad Exhibit 15 - USGS map dated 1965
- Conrad Exhibit 16 - Application for Department of the Army permit, admitted for the limited purpose of providing information regarding fill placed in creek by Mr. Conrad
- Conrad Exhibit 17 - Letter dated February 17, 1987 from Army Corps of Engineers to Mr. Michael Broerman with attached federal register sections 328.3 and 328.4
- Conrad Exhibit 18 - Letter dated August 30, 1983 from Dale and Marvin Van Veldhuizen to the Department
- Conrad Exhibit 19 - Copy of 900 Iowa Administrative Code section 70.2
- Conrad Exhibit 20 - Affidavit of Matthew Thomas
- Conrad Exhibit 21 - ASCS map from a 1983 flight
- Conrad Exhibit 22 - Parts of a deposition of Michael Smith
- Conrad Exhibit 23 - Aerial photograph dated May, 1978
- Conrad Exhibit 24 - Aerial photograph dated April, 1980
- Conrad Exhibit 25 - Exhibits from deposition of Gale Conrad taken November 15, 1984
- Conrad Exhibit 26 - Affidavit of Bob Vermillion
- Conrad Exhibit 27 - Pages 67 and 68 of the trial transcript testimony of Marvin Van Veldhuizen
- Conrad Exhibit 28 - Page 16 of deposition of Dale Van Veldhuizen
- Conrad Exhibit 29 - Pages 16-18 of deposition of Marvin Van Veldhuizen; admitted with the limitation that the department had no opportunity to cross-examine
- Department Exhibit 1 - Transparency of a flood plain
- Department Exhibit 2 - Application for permit to construct in a flood plain filed by Gale Conrad
- Department Exhibit 3 - Several attached documents: letter dated July 19, 1984 from Michael Smith to Gale Conrad, memo from Jeff Simmons dated July 9, 1984, topographic map, and a memorandum to the file dated May 28, 1985 by Jeff Simmons; admitted for the limited purpose of showing what the department requested Mr. Conrad to submit
- Department Exhibit 4a - Transparency of a USGS topographic map
- Department Exhibit 4b - Not admitted
- Department Exhibit 5 - Transparency of sketch of Mr. Conrad's project made by Jeff Simmons

experienced considerable siltation and therefore no longer met the definition of a water of the United States. The placement of fill by you in 1983 in the old channel did not require authorization by this office." (Department Exhibit 10).

16. Other than the memo discussed above, and Mr. Conrad's application itself, no evidence was presented to explain how the Army Corps reached its conclusion that "between 1979 and 1983, the original channel experienced considerable siltation."

17. Substantial evidence at the hearing showed that the cause of the channel change was not siltation of the old Middle Creek channel. Testimony that the old channel could have experienced considerable siltation, and thus naturally diverted flow to the new channel, is not persuasive. Substantial evidence showed that what actually happened was that water flowed in both the old and the new channels until 1983. In 1983, Mr. Conrad filled in the old channel and built levees so that water flowed only in the new channel. (Testimony of Mr. Simmons, Mr. McAdams, Mr. Van Veldhuizen, Mr. Goodman, Mr. Conrad; Conrad Exhibits 5, 16, 18, 22, 24, 25; Department Exhibits 21, 30).

18. Mr. Conrad appealed the condition attached to his permit ordering him to degrade the existing levee from Station 29+00 to Station 62+00 within three months of the date of the permit. (Petition; F P Permit No. 86-159).

19. Station 29+00 is at a point immediately adjacent to Middle Creek just west of where the old channel and the new channel meet. The levee runs along the north bank of the new channel, curves north and east along the new channel until the new channel empties into the North Skunk River, continues along the side of the North Skunk, curves west and runs approximately along Mr. Conrad's north property line. Station 62+00 is along this north part of the levee. The levee system is to protect Mr. Conrad's fields to the north of the new Middle Creek channel and to the west of the North Skunk River. This area contains what used to be the old Middle Creek channel and fields on either side of it. (Conrad Exhibit 9; Department Exhibits 4a and 5; testimony of Mr. Simmons, Mr. Conrad).

20. There is a levee from station 29+00 going west to station 0+71 along the north bank of Middle Creek which the department agreed is pre-1957. The department did not order Mr. Conrad to degrade this portion of the levee. (Department Exhibit 19; testimony of Mr. Simmons).

21. There is an area of very high ground to the south and east of the new Middle Creek channel. This high ground restricts the area available for flood flow of Middle Creek to the south and east. (Department Exhibit 4a; testimony of Mr. Simmons).

22. In his Order of May 6, 1985, the Mahaska County judge ruled that Mr. Conrad "constructed levees and removed others in the

51. Trees along the new Middle Creek channel will help shade the stream to keep the water from heating too much. Also, insects will drop off and provide food for fish. (Testimony of Mr. Bruce).

52. Installation of pool deflectors in the new Middle Creek channel will provide stream diversity needed for fish. (Testimony of Mr. Bruce).

53. Mr. Conrad's permit required him to construct eight low head rock riffle structures (pool deflectors) equally spaced along the new channel. (Department Exhibit 22).

54. The length of the new Middle Creek channel from the point where it separates from the old channel, along the new channel to the Skunk River is 2320 feet. (Department Exhibit 22; Conrad Exhibit 8).

55. The 1978 and 1985 inspections did not yield conclusive nor accurate counts of the actual fish population in Middle Creek before and after the channel change. (See paragraphs 40, 42, and 44 above). Mr. Bruce based his evaluation of the necessity for fisheries mitigation on the fish count taken upstream from Mr. Conrad's property, on his knowledge of and studies of typical Iowa streams, and on studies of what channel changes generally do to fish populations in streams. (See paragraphs 41, 45, 46, 47, 48, 49 above). This evaluation was reasonable, and the permit requirement relating to fisheries habitat mitigation was reasonable and correct. (Testimony of Mr. Jim Bruce, Mr. Simmons; Department Exhibit 13, 22, 27, 28; Conrad Exhibit 8).

#### CONCLUSIONS OF LAW

##### 1. SILTATION

"In general, the doctrine of issue preclusion prevents parties to a prior action in which judgment has been entered from relitigating in a subsequent action issues raised and resolved in the previous action." Hunter v. City of Des Moines, 300 NW2d 121, 123 (Iowa 1981).

"Before issue preclusion may now be employed in any case, these four prerequisites must be established: (1) the issue concluded must be identical; (2) the issue must have been raised and litigated in the prior action; (3) the issue must have been material and relevant to the disposition of the prior action; and (4) the determination made of the issue in the prior action must have been necessary and essential to the resulting judgment." Id.

This issue of whether Mr. Conrad was the responsible party for the channel change and levee construction was raised, litigated and decided in the Mahaska County Court. (See the Ruling on

ENVIRONMENTAL PROTECTION COMMISSION

ITEM \_ \_

INFORMATION

PROPOSED CONTESTED CASE DECISION--LAKWOOD BENEFITED SANITARY DISTRICT

On February 13, 1987, the Director issued Administrative Order 87-WW-08. The Order required the Lakewood Benefited Sanitary District to comply with its N.P.D.E.S. permit, to make necessary repairs to its treatment facility, to file monthly operating reports, to hire a certified operator, and to pay an administrative penalty of \$1,000. The District appealed the Order contesting only the imposition of the penalty.

A contested case evidentiary hearing was held on June 9, 1987. Administrative Hearing Officer Amy Christensen Couch issued the attached proposed decision which affirms the Department's issuance of Administrative Order 87-WW-08.

The District is entitled to appeal this proposed decision to the Commission if it so chooses. In the absence of an appeal, the Commission may elect to review the proposed decision on its own motion. If there is no appeal or review of the proposed decision, the proposed decision automatically becomes the final decision of the Commission.

Mike Murphy  
July 13, 1987

(101.min)



whether the type of violation threatens the integrity of a regulatory program. Iowa Code § 455B.109 (1); 567 Iowa Administrative Code 10.2. Factors to be used in assessing (c) culpability, include (1) the degree of intent or negligence and (2) whether the violator has taken remedial measures. 567 IAC 10.2(3). In determining the amount of the penalty "The actual or reasonably estimated economic benefit shall always be assessed," although the statutory amount is not to be exceeded. 567 IAC 10.3(2).

The Environmental Protection Commission, pursuant to statute, has established rules relating to the operation and maintenance of disposal systems. Iowa Code § 455B.173(3); 567 IAC chs. 60-64. It is unlawful to operate a waste disposal system without first securing a written permit from the department. Iowa Code 455B.183. Once a permit is issued, a wastewater disposal system may not be operated contrary to any condition of the permit. 567 Iowa Administrative Code 64.3(1). By the terms of its NPDES permit, and by departmental rule, the District was required to submit monthly records of operations. 567 IAC 63.6-.8.

It is unlawful to discharge a pollutant into any water of the state. Adequately heated sewage discharged pursuant to a permit is not to be construed as a pollutant. Iowa Code 455B.186.

Wastewater disposal systems must be operated by a certified operator. Iowa Code §§455B.211-.224; 567 IAC ch. 81. The District was required to maintain its facility in good working order and operate its system as efficiently as possible to achieve compliance with its permit. 567 IAC 64.6(5)(f).

#### ORDER

Administrative Order No. 87-WW-08 complied with the requirements of the statutes and rules, and was reasonable and correct. Therefore, it is hereby ORDERED that Administrative Order No. 87-WW-08 is upheld, and the Lakewood Benefited Sanitary District will comply with its terms.

DATED THIS 9<sup>th</sup> DAY OF JULY, 1987.

  
Amy Christensen Couch  
Administrative Hearing Officer

ACC/sac

cc: Richard K. Updegraff  
Diana Hansen

11. Graph of Iowa River Streamflow
12. letter to McAllister from Clinton L. Weber dated 1-13-87.
13. NPDES permit for IBP, Inc. slaughterhouse facility at Storm Lake, Iowa, issued 11-6-82.
14. Interoffice Memorandum for United States Environmental Protection Agency dated 12-18-84.
15. Report entitled "Water Quality Review of Narrative Criteria - Toxics" by the Iowa Department of Natural Resources dated October, 1986.

RULINGS ON PETITIONER'S SUGGESTED FINDINGS OF FACT

The petitioner submitted the following suggested findings of fact to the hearing officer for consideration:

A.A temporary outfall to the Cedar River is technically sound, economically efficient and can be constructed by petitioner in adequate time to discharge to the Cedar River during low flow conditions.

Denied - See Findings of Fact 10-18 below

I.A temporary outfall to the Cedar River is based upon sound engineering principles.

DENIED - See Findings of Fact 10-18 below

II. Petitioner has sufficient knowledge and experience to construct a temporary outfall.

ACCEPTED - See Finding of Fact 10 below

III.A temporary outfall is an economically efficient alternative to a permanent underground outfall.

DENIED - See Findings of Fact 11,12,13 Below

IV. Low Flow conditions in the Iowa River can be adequately predicted to provide sufficient time to construct a temporary outfall.

ACCEPTED - See Finding of Fact 15 Below

B. Concentration limits on effluent discharge of BOD5, TSS and oil and grease imposes double liability on Petitioner for single violation and should not otherwise be maintained.

DENIED - See Findings of Fact 31-35 Below

I. Concentration limits and mass limits are not based upon independent variables.

to reject the proposal because it would run the grave and severe risk of not having the temporary outfall put into place when it was needed. IBP might be unable to construct the temporary outfall due to weather, parts or labor problems. (Testimony of Allen Stokes)

18. Stokes testified that the Department's purpose is to assure that violations do not occur, not wait until the violations do occur and try to repair the damage once it is done. If an improper discharge did occur due to a failure to construct the temporary outfall, the Department could only take enforcement action which would be appealable, during which times the improper discharge could continue and damage the environment. (Testimony of Allen Stokes)
19. IBP, Inc requested a variable ammonia nitrogen limit which would vary according to the stream flow in the Iowa River. Under its proposal, IBP, Inc. would monitor the stream flow daily from the Lone Tree gauging station in order to determine its ammonia limits. In theory, the ammonia nitrogen discharged would vary with the amount of water in the Iowa River. The IBP, Inc. facility at Storm Lake, Iowa has a variable ammonia limit. (Testimony of William McAllister)
20. Without a permanent outfall, IBP, Inc. has no demonstrated method to vary the ammonia nitrogen discharged daily from its treatment plant. The facility at Storm Lake has the capacity for storage, rather than direct discharge to the stream, in the event of low flow. The way the Columbus Junction plant is currently designed there would be relatively constant discharge of ammonia nitrogen. The Department will not allow a variable ammonia limit without a method to vary the ammonia nitrogen going to the Iowa River. Possible methods include a) putting in some treatment to reduce ammonia, b) creating storage for some of the wastewater during periods of low flow so that it can be discharged at a controlled, lesser rate, and c) constructing a permanent outfall and discharging all or a portion of the wastewater to the Cedar River, which has a greater capacity for ammonia. (Testimony of Robert Palla)
21. Settleable solids is a measure of the solids in the effluent that would be expected to settle to the bottom of the stream. If solids settle in significant quantities, there could be detrimental deposits of sludge in the stream. State water quality standards require there be no sludge deposits in the stream. (Testimony of Robert Palla)
22. Settleable solids monitoring is used to evaluate compliance with general water quality criteria and is a standard requirement for all continuous dischargers under 567 Iowa Administrative Code, ch. 63. (Testimony of LaVoy Haage)

requirements, pursuant to 64.6(2), the director shall, for each issued NPDES permit, specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight (except pH, temperature, radiation, and any other pollutants not appropriately expressed by weight). The Director may, in addition to the specification of daily quantitative limitations by weight, specify other limitations such as average or maximum concentration limits, for the level of pollutants authorized in the discharge.

[COMMENT. The manner in which effluent limitations are expressed will depend upon the nature of the discharge. Continuous discharges shall be limited by daily loading figures and, where appropriate, may be limited as to concentration or discharge rate (e.g., for toxic or highly variable continuous discharges)]

The hearing officer agrees that the examples listed in the second sentence of the comment which concern the addition of concentration limits to daily loading limits are not all inclusive and do not prohibit the addition of concentration limits to this particular NPDES permit. In addition, while IBP's production may not be "highly variable" in the same sense as a seasonal industry, production is anticipated to increase more than 100% over the next year. Clearly these facts present a situation where it is "appropriate", to add concentration limits to the daily loading limits.

5. Substantial evidence established that the monitoring of settleable solids does not impose an unnecessary hardship on IBP, Inc. and it does provide useful information to the Department.  
(Findings of Fact 21,22,23)

567 Iowa Administrative Code 63, Table II requires monitoring for settleable solids in permits for organic waste discharges-Continuous Discharge Wastewater Treatment Plants.

567 Iowa Administrative Code 61.3(1) "provides that for all surface waters including those which have been designated as Class "A", "B" or "C" waters, at all places and at all times to protect livestock and wildlife watering, aquatic life, non-contact recreation, crop irrigation, and industrial, domestic, agricultural and other incidental water withdrawal uses not protected by Class "A", "B", or "C" criteria in this rule, "such waters shall be free from substances attributable to point source wastewater discharges that will settle to form sludge deposits."

6. Substantial evidence established that the requirement of daily effluent samples rather than two samples per week is not unnecessarily repetitious, provides useful information

- Department Exhibit 6 - Letter dated August 19, 1985 from Jeff Simmons to Gale Conrad
- Department Exhibit 7 - Letter dated August 19, 1985 from Jeff Simmons to Marion Conover
- Department Exhibit 8 - Copy of 900 Iowa Administrative Code 70.5(3), the rule in effect in 1985
- Department Exhibit 9 - Letter dated September 9, 1985 from the Army Corps of Engineers to Gale Conrad
- Department Exhibit 10 - Letter dated September 25, 1985 from the Army Corps of Engineers to Gale Conrad
- Department Exhibit 11 - Letter dated January 21, 1986 from the department to Mr. Conrad
- Department Exhibit 12 - Letter dated February 21, 1986 from the department to Mr. Conrad
- Department Exhibit 13 - Letter dated February 11, 1986 from the Iowa Conservation Commission to Jeff Simmons
- Department Exhibit 14 - Memorandum of telephone conversation dated April 1, 1986
- Department Exhibit 15 - Letter dated April 1, 1986 from Mr. Conrad to the department with attachment
- Department Exhibit 16 - Letter dated April 10, 1986 from the department to the Iowa Conservation Commission
- Department Exhibit 17 - Letter dated April 23, 1986 from the department to Mr. Hugh Faulkner
- Department Exhibit 18 - Letter dated April 17, 1986 from the Iowa Conservation Commission to the department
- Department Exhibit 19 - Letter dated May 1, 1986 from Eliza Ovrasm to Mr. Faulkner
- Department Exhibit 20 - Letter dated August 7, 1986 from the department to Frank Thomas and Don Kopple with attached letter from Mr. Thomas and Mr. Kopple to the department dated August 14, 1986
- Department Exhibit 21 - Letter dated August 7, 1986 from the department to Marvin Van Veldhuizen with attached letter dated August 22, 1986 from Mr Van Veldhuizen to the department and attached letter dated August 25, 1986 from Garold Keslinga to the department
- Department Exhibit 22 - Letter dated October 16, 1986 from the department to Mr. Conrad with attached Flood Plain Permit No. FP86-159 and attached Flood Plain Project Summary Report and attached map and attached summary of engineering data
- Department Exhibit 23 - Copy of 900 Iowa Administrative Code sections 72.30 - 72.31
- Department Exhibit 24 - Letter dated May 31, 1978 from R. Clair Anderson to the department
- Department Exhibit 25 - Photograph of area from department's R. Anderson file
- Department Exhibit 26 - Photograph of area
- Department Exhibit 27 - Letter dated April 26, 1978 from Chuck Steffan and Jim Bruce to Don Cummings (Conservation Commission Interdepartmental Communication) with attached map

flood plain of the North Skunk River and/or Middle Creek." (Attachment No. 5, Department Motion in Limine).

23. The extensive levee system constructed by Mr. Conrad along the north side of the new Middle Creek channel restricts flood flow of Middle Creek to the north. (Department Exhibits 1, 5; Conrad Exhibits 8, 9; testimony of Mr. Simmons).

24. The surcharge or backwater caused by Mr. Conrad's levee system is approximately three feet on Middle Creek for a discharge of a 7-year flood. This three feet increase would occur on Mr. Conrad's land. Further upstream the backwater would exceed one foot. The levee creates approximately three feet of increase even without considering equal and opposite encroachment. The portion of the levee along the North Skunk River would have a minimal impact on conveyance of the North Skunk flood flows. (Testimony of Mr. Simmons; Department Exhibits 1, 3, 4a, 5, 22; Conrad Exhibit 11).

25. The levee is less than 100 feet from the top of bank of the North Skunk River. At this part of the river, the North Skunk River channel is approximately 90 feet wide. (Department Exhibit 22; testimony of Mr. Simmons).

26. Removal of the levee system east of station 29+00 would be beneficial because it would permit unobstructed flow of floodwaters of Middle Creek. (Testimony of Mr. Simmons; Conrad Exhibit 9; Department Exhibits 1, 4a, 5).

27. Mr. Conrad appealed the condition attached to his permit which required him to "establish and maintain a 100 foot wide habitat strip on each side of the existing Middle Creek channel from the mouth to a point 2800 feet upstream. This area of approximately 13 acres shall be left idle and allowed to revegetate with woody and herbaceous species." (Department Exhibit 22; Petition).

28. On April 25, 1978, Department wildlife biologist Chuck Steffen conducted an inspection of the proposed channel change project by Mr. Anderson. This inspection involved the same property which is the subject of this appeal. In his 1978 inspection, Mr. Steffen found that the "timber associated with the existing channel is dominated by silver maple with scattered cottonwoods, hackberry, and other bottomland species. Most of the timber is quite large with some very large cottonwoods and silver maples. Although the area is ungrazed, the understory is sparse due to frequent flooding. Understory species consist primarily of ragweed and nettle.

Evidence from the field inspection showed that this area is used heavily by deer and is also used by raccoons, squirrels, and several non-game bird species. Pheasants use the younger willows at the north end of the channel and such species as mink, muskrat, and various species of reptiles and amphibians also

Motion in Limine dated April 13, 1987 and fully incorporated herein). Therefore, Mr. Conrad was precluded from relitigating the issue of his responsibility for the channel change and levee construction. The only issues to be decided were the correctness of the Department's conditions regarding levee degradation and fisheries and wildlife mitigation. (Mr. Conrad was also allowed to present new evidence on the issue of whether there was considerable siltation of the old channel to the extent that the Department's action was affected.)

33 CFR Part 328 "defines the term 'waters of the United States' as it applies to the jurisdictional limits of the authority of the Corps of Engineers under the Clean Water Act." 33 CFR §328.1 (1986). The term "waters of the United States" is defined at 33 CFR.3(a) (1986), and this definition is incorporated herein as though set out in full.

33 C.F.R. §328.4(c) (1986) defines the limits of jurisdiction of the United States government over non-tidal waters of the United States. Subpart (1) provides that "In the absence of adjacent wetlands, the jurisdiction extends to the ordinary high water mark . . . ."

33 C.F.R. §328.3(e)(1986) defines "ordinary high water mark" as "that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas."

Jurisdiction of the state of Iowa is quite different. "The department has jurisdiction over the public and private waters in the state and the lands adjacent to the waters necessary for the purposes of carrying out this part." Iowa Code §455B.264(1) (1985).

900 Iowa Administrative Code 70.1, which was in effect on the date Mr. Conrad's permit was issued, provides that "The department has jurisdiction over all flood plains and floodways in the state for the purpose of establishing and implementing a program to promote the protection of life and property from floods and to promote the orderly development and wise use of the flood plains of the state."

"'Flood plains' means the area adjoining a river or stream which has been or may be covered by flood water." Iowa Code §455B.261(1) (1985). "'Floodway' means the channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any river or stream." Iowa Code section 455B.261(2) (1985).

Before the Iowa Department of Natural Resources

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In the Matter of:

The Lakewood Benefited  
Sanitary District

)  
)  
) DIA No. 870090  
) Admin. Order 87-WW-08  
) NPDES Permit No. 91-00-8-02  
) Findings of Fact, Conclusions  
) of Law and Order  
)

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On February 13, 1987, Larry J. Wilson, Director, Department of Natural Resources, (hereinafter Department) issued Administrative Order No. 87-WW-08. The Order required the members of the Board of Trustees for the Lakewood Benefited Sanitary District (hereinafter District) to comply with NPDES Permit No. 91-00-8-02, to make repairs, and to pay an administrative penalty of \$1000.00.

On March 10, 1987, the District filed Notice of Appeal from Administrative Order No. 87-WW-08.

A Notice of Hearing set the hearing for May 7, 1987. The District filed its Petition on April 10, 1987. The Department filed its answer on April 27, 1987. An Order granted the District's request for a continuance to June 9, 1987.

The hearing was held on June 9, 1987 in the third floor conference room, Wallace State Office Building, 900 E. Grand, Des Moines, Iowa.

Representing the parties were Richard Updegraff, attorney for the Lakewood Benefited Sanitary District, and Diana Hansen, attorney for the Department of Natural Resources. The undersigned administrative hearing officer provided.

THE RECORD

The evidentiary record in this case consists of the recorded testimony of the witnesses, the above pleadings and orders, and the following Exhibits:

Lakewood Exhibit 1- engineering report by Anderson Consultants, Inc. dated May 1987.

Lakewood Exhibit 2- letter dated June 8, 1987 from Merle E. Huff.

Department Exhibit A- NPDES operation permit number 91-00-8-02 dated September 27, 1982.



ENVIRONMENTAL PROTECTION COMMISSION

ITEM \_\_\_\_\_

INFORMATION

PROPOSED CONTESTED CASE DECISION--IBP, inc.

On July 13, 1986, the Department issued an N.P.D.E.S. permit to IBP, inc. concerning the operation of the wastewater treatment facility at IBP's Columbus Junction, Iowa hog slaughterhouse. IBP appealed various permit conditions, including the Department's requirement that the facility construct a permanent outfall to the Cedar River in order to discharge ammonia nitrogen at the maximum mass limit the wastewater treatment facility design would allow and the Department's denial of use of a variable mass limit for ammonia nitrogen unless a permanent outfall to the Cedar was constructed. IBP additionally appealed whether the Department correctly included concentration limits, in addition to mass limits, for the parameters BOD<sub>5</sub>, TSS<sub>2</sub> and oil and grease.

An administrative evidentiary hearing was conducted on January 14, 1987, and May 21, 1987. Administrative Hearing Officer Margaret LeMarche issued the attached proposed decision which affirms the Department's issuance of the N.P.D.E.S. permit for the IBP Columbus Junction facility and the conditions and requirements of the permit appealed by IBP.

IBP, inc. is entitled to appeal this proposed decision to the Commission if it so chooses. In the absence of an appeal, the Commission may elect to review the proposed decision on its own motion. If there is no appeal or review of the proposed decision, the proposed decision automatically becomes the final decision of the Commission.

Mike Murphy  
July 13, 1987

(IC2.min)

DENIED - See Findings of Fact 33,34 Below

II. Violation of mass limits cannot occur without either flow or concentration limits also being violated.

DENIED - See Finding of Fact 34 Below

III. Petitioner does not discharge "Toxic substances nor does it maintain a "Highly variable Discharge".

DENIED - See Finding of Fact 32, Conclusion of Law 4

C. Petitioner measures settleable solids when it monitors total suspended solids, while limitations are placed only on total suspended solids.

DENIED - See Findings of Facts 21,22,23 Below

#### Findings of Fact

1. IBP, Inc. of Dakota City, Nebraska has operated a complex hog slaughterhouse in Columbus Junction, Iowa on Sections 18,19, and 20, T75N, R4W, Louisa County, Iowa since October 1, 1986. (Testimony of William McAllister; Petitioner's Exhibit 1)
2. On November 18, 1985 IBP, Inc. submitted a permit application to the Iowa Department of Water, Air, and Waste Management (now the Iowa Department of Natural Resources) for an National Pollutant Discharge Elimination System (NPDES) permit for the Wastewater Treatment Plant Expansion at IBP, Inc's Columbus Junction Facility. (Testimony of William McAllister; Petitioner's Exhibit 1)
3. The application requested a permit for a seven day per week discharge of treated wastewater from a complex hog slaughterhouse to an open ditch tributary to the Iowa River. Treatment is accomplished by anaerobic lagoons followed by activated sludge, final clarification and disinfection. (Testimony of William McAllister; Petitioner's Exhibit 1,7)
4. On April 14, 1986 the Department of Water, Air and Waste Management issued a construction permit to IBP, Inc., at Columbus Junction for refurbishing of the existing treatment plant plus the addition of a second aeration basin, clarifier and associated piping. The construction permit was issued subject to the condition that a new outfall pipe be constructed to the Cedar River since the Iowa River has a summer capacity of only 1633 lbs./day of ammonia nitrogen at the point of the existing outfall. On this condition, the construction permit allowed a maximum of 1920 lbs./day for ammonia nitrogen. The construction permit was not appealed by IBP, Inc. (Department Exhibit L)

23. Settleable solids analysis is very simple and can be easily accomplished by IBP, Inc. lab personnel. (Testimony of William McAllister)
24. Under the N.P.D.E.S permit, IBP, Inc. was required to take effluent samples, seven times per week, as required by the Department's administrative regulations. IBP, Inc. requested the sampling be reduced to twice per week in order to avoid seven day per week staffing of operations and laboratory personnel. IBP, Inc. currently staffs its Columbus Junction facility six days a week. (Testimony of William McAllister, Petitioner's Exhibit 10)
25. The frequency of sampling required by Department regulations is based on the raw waste loading to the treatment facility. The Department determines the population equivalency (PE) for the treatment facility based on the raw waste BOD (biochemical oxygen demand) loading to the facility. The Department has determined that PE for a certain amount for a municipality is comparable to the same PE for industry. The PE for the Columbus Junction facility was calculated to be greater than 105,000 which requires sampling frequency of seven times a week. (Testimony of William McAllister; Petitioner Exhibit 8, p. 4; Petitioner Exhibit 11)
26. IBP, Inc argued for the variance from the Department's regulations on sampling frequency based on two grounds. First, IBP felt that they should be treated differently from a municipal system because the quantity and quality of their raw wastewater is consistent as opposed to the wide fluctuations in quality and quantity found in municipal systems. Second, IBP contended that the PE should be based on the design loading to the activated sludge plant since the upstream anaerobic lagoons provide equalization and consistent treatment performance and is not subject to mechanical failure or deficiencies. The PE based on design criteria for the activated sludge plant (5400 lbs/day) is approximately 32,340. For this PE, agency regulations will allow a sampling frequency of twice/week. However, the Department calculates population equivalents based upon the raw waste loading to the entire treatment facility, not the raw waste loading to a portion of the facility, such as the activated sludge plant. (Testimony of William McAllister; Petitioner's Exhibit 8, Petitioner's Exhibit 11, Testimony of Robert Palla)
27. Total Residual Chlorine is a measure of the free available chlorine in the combined residual chlorines in the wastewater. (Testimony of Robert Palla)
28. There is no limit in the NPDES permit for total residual chlorine because the Department is still in the process of preparing calculation methods for determining those

to the Department, and is required by administrative rule.  
(Findings of Fact 24,25,26)

567 Iowa Administrative Code 63, Tables II and III requires daily effluent sampling for a facility with a population equivalent >105,000.

7. Substantial evidence established that the Department's decision to require IBP, Inc. to monitor Total Residual Chlorine (TRC) in the Iowa River does not impose an unnecessary hardship and will provide useful information without sample degradation.  
(Findings of Fact 27,28,29,30)

567 Iowa Administrative Code 61.3(3) provides that waters which are designated as Class "B" waters are to be protected for wildlife, fish, aquatic and semi-aquatic life and secondary contact water uses. It further provides levels of chemical constituents which shall not be exceeded at any time the flow equals or exceeds the seven-day, ten-year low flow unless the material is from uncontrollable nonpoint sources. For Total Residual Chlorine (TRC) the maximum level is 25 ug/l.

567 Iowa Administrative Code, Chapter 63, Table III contains operational monitoring requirements in permits. It provides that total residual chlorine shall be monitored and the frequency of the required monitoring is determined by the population equivalency (PE).

It is therefore ORDERED that the issuance of NPDES Permit No. 58-00-01-00, with the conditions as they were imposed by the Department, is affirmed.

DATED THIS 8<sup>th</sup> DAY OF July, 1987.

Margaret LaMarche  
Margaret LaMarche  
Hearing Officer  
Iowa Department of Inspections and  
Appeals

ML/sac

Department Exhibit 28 - Field Survey Form filled out by Jim Bruce and Chuck Steffan  
Department Exhibit 29 - Map  
Department Exhibit 30 - Letter dated August 8, 1984 from Dale and Marvin Van Veldhuizen to Mike Smith  
Department Exhibit 31 - Copy of 900 Iowa Administrative Code 72.4  
Department Exhibit 32 - Memo of telephone conversation dated September 16, 1985 with attached map  
Department Exhibit 33 - Copy of 900 Iowa Administrative Code 70.2

#### FINDINGS OF FACT

1. In 1978, K. Clair Anderson applied to the department for a permit to construct a channel change of Middle Creek in Mahaska County, Iowa. The application was denied. This application involved the same property which is the subject of the current appeal. (Department Exhibit 24, 27; Conrad Exhibit 7, 13; testimony of Mr. Jeff Simmons; Mr. Chuck Steffan; Mr. Jim Bruce).
2. Mr. Gale Conrad purchased the property concerned in this appeal in April or May of 1982. (Testimony of Mr. Conrad; Mr. Goodman).
3. The property is located on the flood plain of Middle Creek and the North Skunk River in Mahaska County, Iowa. (Department Exhibits 2, 3, 4a; testimony of Mr. Jeff Simmons). Middle Creek drains 65 square miles at the project site. (Department Exhibit 22).
4. The project which is the subject of this appeal involves a channel change of Middle Creek and construction and rearrangement of levees along Middle Creek. (Department Exhibit 2; Conrad Exhibit 8, testimony of Mr. Simmons).
5. Prior to the beginning of this administrative appeal, the parties were involved in litigation in Mahaska County District Court over the construction which is the subject of this appeal. In that litigation, the Mahaska County District Court granted the department's motion for summary judgment and ordered Mr. Conrad to complete engineering plans and file an application for the project with the department. (Attachments 5 and 6 to the Department's Motion in Limine).
6. As a result of the Mahaska County District Court Rulings, Mr. Gale Conrad filed an Application for an after-the-fact Permit to Construct on a Flood Plain on July 22, 1985. (Department Exhibit 2; testimony of Mr. Simmons).
7. The department issued Flood Plain Development Permit No. FP86-159 to Mr. Conrad on October 20, 1986. (Department Exhibit 22).

undoubtedly use the area. Because the timber is quite old, it probably provides excellent denning sites for raccoons and squirrels as well as nesting and feeding habitat for non-game species such as nuthatches, woodpeckers, and brown creepers.

If the old channel were filled and the timber converted to cropland, species such as deer would lose an excellent travel lane while species with smaller home ranges and/or specific habitat requirements such as raccoons, squirrels, certain non-game bird species as well as certain reptiles and amphibians would probably experience local population decreases. (Department Exhibits 25, 26, 27; testimony of Mr. Chuck Steffen).

29. When this inspection was done, the original channel was carrying the flow of Middle Creek. (Testimony of Mr. Steffen).

30. In 1978, Mr. Steffen estimated that if the original channel were filled in and the land converted to cropland, there would be a loss of wildlife habitat of approximately 17 acres. (Testimony of Mr. Steffen; Department Exhibit 27). The department denied Mr. Anderson's application for a permit. (Testimony of Mr. Steffen).

31. On August 7, 1984, Mr. Steffen returned to the property and conducted another inspection. He also did an inspection on October 23, 1985. Between the 1978 inspection and the 1984 inspection, the old channel had been filled in, the timber was cleared, and fields on either side of the old channel were being farmed as one unit. (Testimony of Mr. Steffen; Conrad Exhibit 5; Department Exhibit 13).

32. Mr. Steffen estimated that the area of wildlife habitat lost due to the above project was 14 acres. (Department Exhibit 28; testimony of Mr. Steffen).

33. Between 1978, when Mr. Steffen inspected the property, and 1982, when Mr. Conrad purchased the property, it appears that some clearing of timber occurred on the property. (Testimony of Malcom Livingston). Evidence was unclear regarding the amount of timber existing on the property. (Conrad Exhibits 1, 2, 4, 5, 6, 21, 23, 24, 25; Department Exhibits 25, 26, 29). Testimony was conflicting and unclear as to how much timber was cleared, and how much remained. (Testimony of Malcom Livingston; Mark McAdams; Dale Van Veldhuizen). Estimates of the acres of non-cleared land remaining in 1982 ranged from twelve to fifteen acres to four to six acres. (Testimony of Malcom Livingston; Mark McAdams; Dale Van Veldhuizen).

34. There is no doubt that Mr. Conrad cleared a significant amount of land, bulldozed trees, filled in the original channel, and began farming the fields on either side of the original channel. (Testimony of Dale Van Veldhuizen; Gale Conrad; Malcom Livingston; Bill Goodman; Mahaska County District Court Order; Conrad Exhibits 4, 5; Department Exhibits 25, 26).

## 2. LEVEE DEGRADATION AND FISHERIES AND WILDLIFE MITIGATION

Iowa Code §455B.264(3) (1975) provides that: "Upon application by any person for approval of the construction or maintenance of any structure, dam, obstruction, deposit, or excavation to be erected, used, or maintained in or on the flood plains of any river or stream, the department shall investigate the effect of the construction or maintenance project on the efficiency and capacity of the floodway. In determining the effect of the proposal the department shall consider fully its effect on flooding of or flood control for any proposed works and adjacent lands and property, on the wise use and protection of water resources, on the quality of water, on fish, wildlife, and recreational facilities or uses, and on all other public rights and requirements."

Iowa Code §455B.275(2) (1975) provides that: "A person shall not permit, erect, use or maintain a structure, dam, obstruction, deposit, or excavation in or on a floodway or flood plains, which will adversely affect the efficiency of or unduly restrict the capacity of the floodway, or adversely affect the control, development, protection, allocation, or utilization of the water resources of the state, and the same are declared to be public nuisances."

Mr. Conrad was required by statute to file an application for a permit for his construction prior to beginning the construction. Iowa Code §455B.275(3) (1975); §455B.277 (1975). Mr. Conrad did not apply for his permit until after he had completed the work, and was required to file an application by the Mahaska County district court.

Once an application is submitted, the department, after investigation, may approve or deny the application, and may impose conditions on the permit. Iowa Code § 455B.275(3) (1975); 455B.277 (1975).

The department has the authority to impose conditions on the grant of an after-the-fact flood plain development permit. This includes the authority to require relocation and/or degradation of levees, and to impose wildlife and fisheries mitigation conditions. Osborne v. Iowa Natural Res. Council, 336 NW2d 745 (Iowa 1983); Young Plumbing and Htg. v. Iowa Natural Res. Council, 276 NW2d 377 (Iowa 1979).

The department is granted the authority to "establish and enforce rules for the orderly development and wise use of the flood plains of any river or stream within the state." Iowa Code §455B.276 (1975).

567 (formerly 900) I.A.C. §71.2 provides that departmental approval "for the construction, operation, and maintenance of channel changes shall be required in the following instances. ... In rural areas: a. Channel changes not otherwise associated

Department Exhibit B- letter dated December 29, 1986 from Jack W. Clemens, inspection report filed by Robert Schuelzky and Bryon Whiting on December 1, 1986, and water quality report dated December 3, 1986.

#### FINDINGS OF FACT

1. The Lakewood Sanitary District, the Appellant (hereinafter the District), has a two-cell waste stabilization lagoon, which was constructed in 1966. This lagoon system is the wastewater treatment facility for the District. (Department Exhibit B)
2. The District was issued NPDES Permit Number 91-00-8-02 on September 27, 1982. The expiration date of the permit is July 31, 1987. Permit Condition number 5 required that "All facilities and control systems shall be operated as efficiently as possible and maintained in good working order, in accordance with rule 19.6(5) "f", and a sufficient number of staff, adequately trained and knowledgeable in the operation of your facility shall be retained to achieve compliance with the terms of this permit." Permit Condition number 6 required that "you are required to maintain records of your operation in accordance with rule 18.9." In Appendix A of the permit, the following requirement is stated: "Controlled Discharge - This facility must be operated using a storage/drawdown method of operation, with the drawdown to be accomplished during the spring and/or fall to take advantage of higher than average stream flow". The permit provided for effluent limitations, using both average and maximum concentration limits. The permit provided for certain monitoring and reporting requirements in Appendix B. The permit required monthly reporting. (Department Exhibit A; testimony of Robert Schuelzky).
3. NPDES Permit 91-00-8-02 stated on its face: "You may appeal any conditions of this permit by filing a written notice of appeal and request for administrative hearing with the executive director of this Department within 30 days of your receipt of this permit. (See section 455B.33(4), Code of Iowa 1977 and rules 400--24.14(4) and (5), Iowa Administrative Code.)" (Department Exhibit A).
4. There was no evidence that the District appealed the conditions of NPDES Permit No. 91-00-8-02 within the 30-day limit.
5. The District's facility was designed to be operated as a controlled discharge facility. (testimony of Tom Hildebrand; Robert Schuelzky).
6. The District's operator, James Barr, is not certified. (testimony of Mr. Hildebrand; Mr. Schuelzky). There was no evidence that the District has ever had a certified



BEFORE THE IOWA DEPARTMENT OF NATURAL RESOURCES

DES MOINES, IOWA

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IN THE MATTER OF:

IBP, INC.

) Proposed Findings of Fact  
) Conclusions of Law and Order  
)  
) Docket No. 86-CC-15  
) (DIA #87000382)

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On July 3, 1987, the Iowa Department of Natural Resources (hereinafter, the Department) issued Iowa NPDES (National Pollutant Discharge Elimination System) Permit No. 58-00-1-00 to IBP, Inc. to operate the disposal system at its Columbus Junction slaughterhouse and to discharge the pollutants specified in the permit in accordance with the effluent limitations, monitoring requirements and other terms set forth in the permit. On July 30, 1986 IBP, Inc. appealed from the conditions imposed by NPDES Permit No. 58-00-1-00. The petition was filed on July 30, 1986. A Notice of Hearing set the hearing for September 15, 1986.

A motion for a continuance was filed by the petitioner on September 4, 1986, which was granted. The hearing was continued until October 1, 1986. The answer was filed on September 9, 1986. The Department filed a motion for a continuance which was granted. The hearing was continued until October 29, 1986. A motion for continuance was filed by the petitioner on October 13, 1986, which was granted. The hearing was continued until December 3, 1986. Petitioner filed a motion for a continuance on October 30, 1986, which was granted. The hearing was continued until December 18, 1986.

An amended answer was filed on December 10, 1986. On December 11, 1986 the Department made an oral motion for a continuance during a telephone conference call with the hearing officer and Jack Litmer, attorney for petitioner. The oral motion was to be confirmed by a written motion, which was filed December 30, 1986 and granted. IBP's Response to Respondent's Amended Answer was filed on December 30, 1986. The hearing was continued until January 14, 1987.

At the hearing, IBP, Inc. requested an indefinite continuance on issue three (3) found on page two (2) of their petition. This motion was not resisted by the Department and was granted. The Department made an oral motion that IBP, Inc. be precluded from presenting evidence on issue one (1) of the petition, which related to a proposed temporary outfall, on the grounds it had been waived by IBP, Inc.'s failure to appeal their construction permit. The hearing officer ruled that IBP, Inc. would be allowed to present evidence on issue one, (1) but that a final

5. A draft NPDES permit was sent to IBP, Inc. by certified mail on April 24, 1986. The draft permit prohibited IBP, Inc. from discharging pollutants more frequently or in excess of the limitations expressly set out (Department Exhibit C, Petitioner's Exhibit 7, Testimony of William McAllister)
6. The summer ammonia limit in the draft NPDES permit was based upon the wasteload allocation for the Iowa River at the existing outfall pipe. The cover letter on the draft NPDES permit informed IBP, Inc. that if IBP applied for a construction permit for an outfall to the Cedar River or the Iowa River below the confluence with the Cedar, the permit could be revised to increase the ammonia limit. The existing outfall is located one half mile upstream of the confluence of the Iowa and Cedar Rivers. The ammonia allocation for the Cedar River is approximately 4500 lbs./day. (Petitioner's Exhibit 7, Department Exhibit C, Testimony of William McAllister)
7. IBP, Inc. responded in writing to the draft NPDES permit and requested several modifications, including approval of a temporary outfall pipe 002 to the Cedar River to be used during low stream flow conditions to the Iowa River and a variable ammonia nitrogen permit limit. (Petitioner's Exhibit 8; Testimony of McAllister)
8. IBP, Inc. also requested modification of the following requirements from the draft NPDES permit: 1) removal of average and maximum flow restrictions, 2) removal of average and maximum concentration limits for BOD5, total suspended solids, and oil and grease, 3) removal of measurement of settleable solids at outfall 001, 4) reduction of sampling frequency for BOD5, total suspended solids, ammonia nitrogen, oil and grease, fecal coliform, temperature, PH, MCSS, dissolved oxygen, and 30 minute settleability from 7 times/week to twice/week, 5) anaerobic effluent sample type to be changed from a 24 hour composite sample to a grab sample, 6) removal of the flow monitoring requirement for a raw wastewater and temperature monitoring of the final effluent. (Petitioner's Exhibit 8; Testimony of McAllister)
9. The final NPDES permit number 58-00-1-00 was issued on July 3, 1986. On July 30, 1986 IBP, Inc. appealed the conditions imposed by the NPDES permit. In its Petition, IBP, Inc. specifically appealed the disallowance of a temporary outfall pipe to the Cedar River, the disallowance of variable ammonia limits, the imposition of flow and concentration limits on wastewater discharges, the monitoring requirement for settleable solids and total residual chlorine, and the requirement of seven times per week effluent samples rather than two samples per week.

limits. However, the Department still requires certain facilities to monitor total residual chlorine in order to give the Department background information concerning the effect this parameter would have in the streams and for use in establishing the level of discharge limits. (Testimony of Robert Palla)

29. Chlorine is considered to be a toxic pollutant and the state water quality standard for chlorine is 25 micrograms per liter or .025 milligrams per liter. The U.S. Department of Interior, Fish and Wildlife Service is concerned that the residual chlorine in IBP's discharge will adversely affect the aquatic life in the Iowa River, which is one of the most popular rivers for sports fishing in Southeast Iowa. (Testimony of Robert Palla, Petitioner's Exhibit 11)
30. A field unit which is sophisticated enough to test total residual chlorine precisely, and which is fairly easily used, is available for a cost of approximately \$2000.00. With this equipment, IBP would be able to take its own samples and test them at the facility without any problem of sample degradation. IBP, Inc. presented no evidence to demonstrate that an expenditure of \$2000.00 would be a hardship. (Testimony of Robert Palla)
31. Mass limits for BOD5, Total Suspended Solids, and oil and grease are based upon production levels and the federal effluent guidelines. With a new facility, mass limits are based upon the applicant's projected production rate. IBP, Inc.'s projected production rate for its Columbus Junction facility is 12,000 head of hogs per day. (Testimony of Robert Palla, William McAllister)
32. Federal regulations require mass limits to be related to actual production of a facility. Actual production rates can vary from projected production rates, as IBP's experience at both its Storm Lake and its Columbus Junction facility confirms. The projected production rate for IBP's facility at Storm Lake was 6800 head per day, but it is currently producing 12-13,000 head per day. As of May 1987, the Columbus Junction facility was actually producing 5000 to 5400 head per day. It could take as long as another year before the facility is operating at its projected production rate of 12,000 head per day. (Testimony of Robert Palla, William McAllister)
33. The Department generally includes mass, flow, and concentration limits in NPDES permits. Concentration limits assure that the NPDES permit will reflect actual current production rates and not just projected production rates. The designation of mass and concentration limits necessarily implies a specific flow rate. Flow and concentration limits assure the same minimum level of

8. The permit was issued with several conditions attached; the following among them.

Condition No. 5 -

Levee degradation. The permittee shall degrade the existing levee from Station 29+00 to Station 62+00 as shown on the approved plans. Degradation shall consist of removing all levee material down to natural ground level. Spoil material shall be removed from the flood plain or spread thinly (less than 1 foot thick) in surrounding areas. The levee from Station 0+71 to Station 29+00 can be maintained at its present location and elevation but cannot be raised without prior Department approval. Levee degradation shall be accomplished within 3 months of the effective date of this permit.

Condition No. 6 -

Fisheries Habitat Mitigation. The permittee shall construct and maintain eight (8) low head rock riffle structures in the straightened portion of the new Middle Creek channel (Station 29+00 to Station 50+70). Such structures shall be approximately 2 feet above the stream bottom and shall be constructed of rock 1 to 3 feet in diameter extending across the channel and keyed into existing banks. The structures are to be equally spaced along the new channel. In addition, woody vegetation shall be planted along the stream banks of the new channel. The fisheries habitat mitigation shall be completed within 6 months of the effective date of this permit.

and Condition No. 7 -

Wildlife Habitat Mitigation. The permittee shall establish and maintain a 100 foot wide habitat strip on each side of the existing Middle Creek channel from the mouth to a point 2800 feet upstream. This area of approximately 13 acres shall be left idle and allowed to revegetate with woody and herbaceous species. Mowing, grazing and spraying of the habitat strips is permanently prohibited except as necessary, to comply with an order issued pursuant to Chapter 317 of the Code for control of noxious weeds.  
(Department Exhibit 22).

9. Mr. Conrad appealed these three conditions attached to FP Permit 86-159. (Petition). Mr. Conrad also raised the issue of whether the old Middle Creek channel had silted shut prior to 1983 so that no permit was needed. (Resistance and Argument to Department's Motion in Limine). Mr. Conrad did not request a variance. (Testimony of Mr. Simmons).

10. In the prior litigation, the Mahaska County judge found that water flowed in the old channel when Mr. Conrad bought the property, and that Mr. Conrad filled in the old channel. (Attachment 8 to Department Motion in Limine). At the administrative hearing in April, 1987, Mr. Conrad argued that new

35. The cropland created by Mr Conrad is not usable as wildlife habitat. There has been a significant adverse impact on wildlife habitat due to Mr. Conrad's project. (Testimony of Mr. Steffen).
36. In 1985, Mr. Steffen estimated that the loss of wildlife habitat was approximately 14 acres. Mr. Steffen reduced this estimate to 13 acres to try to settle the case. (Testimony of Mr. Steffen).
37. The department specifically denied a permit for the channel change in 1978. Department personnel foresaw what would happen if a channel change were allowed. Considering the facts that the department estimated a loss of 17 acres based on the 1978 inspection, specifically denied a permit, evidence was conflicting as to how many acres were cleared between 1978 and 1982, and Mr. Conrad did significant clearing, it was reasonable and correct for the department to base its wildlife mitigation requirement on 13 acres.
38. The appellant appealed the condition attached to his permit regarding fisheries habitat mitigation. He was required to "construct and maintain eight (8) low head rock riffle structures in the straightened portion of the new Middle Creek channel." (Department Exhibit 22).
39. Mr. Jim Bruce, a field fisheries biologist for the Department, inspected the old Middle Creek channel in 1978 as a part of the review of the project for Mr. Anderson. (Testimony of Mr. Bruce; Department Exhibit 28).
40. The examination in 1978 was a very cursory examination of the stream to determine its size and general quality. From that Mr. Bruce estimated the fish population and speculated as to the value of the creek for fish habitat. Mr. Bruce did not sample any fish or collect water samples in 1978. (Testimony of Mr. Bruce).
41. Mr. Bruce based his estimate of the Middle Creek fish population on his knowledge of the fish populations of similar streams. (Testimony of Mr. Bruce).
42. In his report of April 26, 1978, Mr. Bruce stated: "Effects on Fish Habitat: Although this section of Middle Creek probably provides little sport fishing, it does appear to possess adequate size and quality to contain minnow, sucker, and sunfish populations which could provide angling for smaller fish. In addition, it also must supply forage for the North Skunk River to which it is a tributary. The channel change as proposed would decrease this benefit by decreasing both the quantity and quality of stream available for fish production." This was a poor estimate of the fish population at that time. (Testimony of Mr. Bruce; Department Exhibit 27).

with road projects in or on the floodway of any stream draining more than ten (10) square miles at the location of the channel change." §71.2(1)a.

567 I.A.C. §71.4(1) provides that approval by the department for levee construction and maintenance is required in rural areas when the levee is "located on the flood plain or floodway of any stream or river draining more than ten (10) square miles."

"Channel change" means either (1) the alteration of the location of a channel of a stream or (b) a substantial modification of the size, slope, or flow characteristics of a channel of a stream for a purpose related to the use of the stream's flood plain surface rather than for the purpose of actually using the water itself, or putting the water to a new use. . . ." 567 I.A.C. §70.2.

567 I.A.C. §72.2 lists criteria applicable to channel changes. §72.2(7) provides that the "channel change shall not have a significant adverse effect on fish or wildlife habitat . . . conservation easements and other conditions may be required to mitigate potential damages to the quality of water, fish and wildlife habitat . . ."

567 (formerly 900) I.A.C. §72.4(1)d provides "The maximum increase in the flood profile resulting from the construction, operation, and maintenance of an agricultural levee or dike shall be one foot. Equal and opposite conveyance as defined in Chapter 70 of these rules shall be used in determining the maximum increase in flood profile resulting from such levees or dikes." 567 I.A.C.

Section 72.4(1)f provides "A minimum offset equal to one hundred (100) feet or twice the width of a river or stream measured from top of bank to top of bank, whichever distance is less, shall be required for all agricultural levees unless a greater offset is dictated by 72.4(1) paragraph "c" or "d."

#### DECISION AND ORDER

The old Middle Creek channel did not naturally silt shut so that no permit was needed for the channel change and levee construction by Mr. Conrad. Mr. Conrad was required to apply for a permit from the department.

The conditions attached to Flood Plain Development Permit No. FPD-159 regarding levee degradation and fisheries and wildlife habitat mitigation complied with the statute and departmental rules and were reasonable and correct.

It is therefore ORDERED that the issuance of Flood Plain Development Permit No. FPD-159 is affirmed and the appellant will comply with the permit as issued, except that the effective date for time limits will be the date of issuance of this Order rather than the date of the issuance of the permit.

operator. (testimony of Mr. Schuelzky).

7. The District's facility has never been operated as a controlled system, but has always been operated as a continuous discharge system. (testimony of Mr. Schuelzky).
8. The District has not done the testing as required nor submitted the reports required by NPDES Permit No. 91-00-S-02. (Department Exhibit B; testimony of Mr. Schuelzky). The District has submitted some lab reports, but they have not complied with the requirements of the permit. (testimony of Mr. Schuelzky). The samples taken have not complied with the testing requirements of the permit. (testimony of Mr. Schuelzky).
9. On November 25, 1986, Robert Schuelzky and Bryon Whiting of The Department of Natural Resources inspected the District's facility. Grab samples were taken. The facility was in compliance with the permit effluent limitations based on the grab samples taken on that date. (Department Exhibit B; testimony of Mr. Schuelzky).
10. Upon inspection, Mr. Schuelzky found that a number of repairs to the facility were necessary. These include repair or replacement of discharge control sluice valves; unplugging of the transfer equalization line between the two lagoons; repair of erosion of the inward slopes of the lagoons; mowing of weeds on the inward slopes of the lagoons; muskrat control in the lagoon cells; and installation of a method of measuring effluent flow in the outfall structure. The repairs must be made in order for the system to be operated as designed. (testimony of Mr. Schuelzky; Department Exhibit B.; Lakewood Exhibit 1).
11. The Department issued Administrative Order No. 87-WW-08 on February 13, 1987. The Order required the District to comply with the monitoring and reporting requirements of NPDES Permit No. 91-00-S-02. The Order required the District to pay an administrative penalty of \$1,000, to hire a certified operator, and to make certain repairs and perform certain maintenance.  
  
The \$1000 fine was assessed using three factors: (a) economic benefit, (b) gravity and (c) culpability. (Administrative Order No. 87-WW-08).
12. Since January 1, 1987, the District has had a new trustee, Matthew Coenen. Since Mr. Coenen has been a trustee, the District hired an engineering firm to consult on required repairs and costs of these repairs. The only repair or maintenance which had been done as of the hearing date was the mowing. (testimony of Matthew Coenen; Lakewood Exhibit 1).

legal ruling on the Department's motion would be reserved until the parties had an opportunity to address the waiver issue more fully in post hearing briefs.

IBP, Inc. also requested that a transcript be prepared immediately following the hearing, at their expense, to be used by the attorneys in the preparation of their briefs. The reason for the request was that their attorney, Jack Litner, would be leaving IBP, Inc.'s employ immediately following the hearing, and a new attorney would be responsible for preparing the brief. The Department did not resist this request, and it was granted. The parties were informed that briefs would be due four weeks from the date the transcripts were received. Responsive briefs, if necessary, were to be filed within ten days of the date the brief is received.

The initial hearing was held on January 14, 1987 in the fifth floor conference room, Wallace State Office Building, 900 E. Grand, Des Moines, Iowa 50319. Representing the parties were Diana Hansen, counsel for the Department, and Jack Litner, counsel for IBP, Inc. The undersigned hearing officer presided.

On April 3, 1987 the Department filed a Motion to Reschedule Hearing on issue three (3) from the Petition, and requested that briefs be deferred until after testimony was heard on issue three (3). In a telephone conference call between the parties, it was agreed that the hearing would be set for May 21, 1987, and the briefs for the hearing held on January 14, 1987 would be deferred until after the May 21, 1987 hearing.

Petitioner filed a Motion in Limine on May 14, 1987 requesting exclusion of any evidence relative to any event occurring subsequent to July, 1986. The Motion in Limine was resisted by the Department.

The hearing on issue three (3) was held on May 21, 1987 in the fifth floor conference room, Wallace State Office Building. Representing the parties were Diana Hansen, counsel for the Department, and Richard Yochum, counsel for IBP, Inc. The undersigned hearing officer presided. The petitioner's Motion in Limine was denied by the hearing officer, and the parties were instructed that any evidence subsequent to July, 1986 would be examined for relevancy when its admission was requested.

#### THE RECORD

The evidentiary record in this case consists of the recorded testimony of the witnesses, the above pleadings, the oral motions made prior to the commencement of the hearing, and the following exhibits:

Department Exhibit A: letter to William McAllister from Stephen W. Ballou dated 3-27-86



Petitioner's Exhibit 10, the Petitioner)

The proposed temporary outfall to the Cedar River would consist of approximately 3500-4000 feet of aluminum irrigation pipe installed above ground and a portable pump. It would accommodate a million gallons per day. The pipe would be stored outdoors by the treatment plant and the couplings and fittings would be stored in the operations building. IBP offered to have storage of the necessary equipment on site and in working order as a condition of its permit. William McAllister, Manager of Environmental Affairs for IBP, Inc. has substantial experience with irrigation pipe assembly and use. Testimony of McAllister; Petitioner's Exhibit 8)

IBP's primary reason for proposing a temporary outfall is the cost savings. IBP presented a cost estimate prepared by their consultant which was based upon use of 8 inch diameter pipe and a self-priming pump. The estimated costs for this proposal was \$29,200.00. This estimate does not include the repeated cost of manually installing the pipe for each use. This installation was estimated to require the labor of four men for two days at a cost of \$1100.00. Testimony of McAllister, Clinton Weber, Petitioner's Exhibit 13)

IBP's consultant estimates the cost of constructing a permanent outfall, using 12 inch pipe, to be \$154,300. This estimate does include all installation costs and 15% for engineering and overhead. (Testimony of Clinton Weber, Petitioner's Exhibit 13)

The construction grants division of the Department also prepared a cost estimate for constructing a permanent outfall. They estimated the cost of construction to be \$64,200, including the costs of excavating a trench, laying 12 inch pipe, backfilling, constructing manholes, mobilization of excavating equipment, construction of headwall, a pump, and installation. (Testimony of Robert Halls, Department Exhibit E) The hearing officer finds that the actual cost of installing a permanent outfall pipe is somewhere between the figures suggested by the Department and IBP, Inc. Except for presenting the cost estimates, IBP, Inc. presented no other evidence to demonstrate that the expenditure for a permanent outfall would be an undue hardship. The cost figure alone is not sufficient to establish that the cost of a permanent outfall would be an undue hardship on IBP, Inc.

IBP requested permission to construct a temporary outfall because the outfall would be used infrequently and would be less disruptive than a permanent outfall since it would require less clearing and grubbing of the lowland area. The 1633 lbs/day summer ammonia nitrogen load allocation is

treatment at production levels lower than the projected production level. (Testimony of Robert Palla, Petitioner's Exhibit 11)

34. At the projected production rate, if the Columbus Junction facility violates the mass limit, it will necessarily also violate flow and concentration limits. However, at less than the projected production rate of 12,000 head per day, concentration limits could be violated without a violation of mass limits. (Testimony of William McAllister, Robert Palla)
35. Mary McGee, the Iowa-Nebraska Permit Coordinator for the United States Environmental Protection Agency (E.P.A.) - Region 7, testified at the hearing. Ms. McGee earned her Ph.D in Environmental Engineering in 1975, and has worked for the E.P.A. for nine years and taught environmental engineering at the University of Kansas from Fall of 1975 until 1982. In her position as Permit Coordinator, Ms. McGee reviews all major permits issued in Iowa and Nebraska for compliance with federal regulations. In her first two years with the E.P.A. in 1974 and 1975, Ms. McGee wrote the Iowa Industrial Permits, before this responsibility was passed on to one of the predecessor agencies of the Iowa Department of Natural Resources. Ms. McGee could see no problem with placing flow and concentration limits on ISP, Inc.'s NPDES permit. If Ms. McGee had written the permit, she would have included flow and concentration limits. She could not recall ever writing an industrial permit that did not include flow and concentration limits. (Testimony of Mary McGee)

#### Conclusions of Law

1. ISP, Inc. did not waive the right to appeal the Department's denial of its use of a temporary outfall by its failure to appeal the construction permit issued on April 14, 1986.

The construction permit was conditioned upon the construction of a new outfall to the Cedar River. The Department argued that the requirement that "plans and specifications for the new outfall must be submitted for review and amendment of this construction permit before work on the outfall is initiated" implies that the outfall was intended to be a permanent structure. This implication is rejected, and the hearing officer finds that waiver cannot be found since the construction permit did not specify a permanent outfall. The request for a temporary outfall was made by ISP, Inc. on May 19, 1986, after the time to appeal the construction permit had lapsed. The temporary outfall was thereafter debated in correspondence between the parties, and the final NPDES permit was accompanied by a cover letter which specifically denied

evidence, not available to the Mahaska County judge, showed that the old channel had naturally silted shut prior to 1983, when Mr. Conrad filled in the old channel. (Resistance).

11. After Mr. Conrad submitted his application for after-the-fact approval to the Department, the Department suggested that Mr. Conrad contact the Army Corps of Engineers to determine whether they would require him to secure a Corps permit. (Department Exhibit 6; testimony of Mr. Simmons).

12. On September 9, 1985, the Army Corps wrote to Mr. Conrad and told him to apply for an after-the-fact permit with the Corps. (Department Exhibit 9).

13. Mr. Conrad submitted his application to the Corps on September 10, 1985. Mr. Conrad stated under part 4c. Discharge of Dredged or Fill Material: "used to create dike or fill in old channel." He also stated "I completed the work as it is today summer of 1983." (Conrad Exhibit 16).

14. On September 16, 1985, Richard Evoy of the Army Corps made a memo of a telephone conversation he had had with Randy Clark, attorney for the Department. In that memo Mr. Evoy stated: "Mr. Clark stated that part of the portion of Middle Creek that was cut off by the pilot channel was not filled in by Mr. Conrad. This segment of the Middle Creek only holds water when the Skunk River floods. This indicates that the whole original segment of Middle Creek was silted in above the ordinary high water elevation." A diagram of the area was attached. (Department Exhibit 32).

It is totally unclear how Mr. Evoy came to the conclusion that Mr. Clark's statement indicated that the old channel was silted in above the ordinary high water elevation. The statement indicates nothing regarding siltation of the original channel on Mr. Conrad's property. Mr. Conrad filled in the original channel on his property. He stopped filling in the original channel at the edge of his property line. The original Middle Creek channel flowed from Mr. Conrad's property onto land owned by the Van Veldhuisens and then emptied into the North Skunk River. Mr. Conrad did not fill in that portion of the original Middle Creek channel which was on land owned by the Van Veldhuisens. That is the portion of Middle Creek referred to by Mr. Clark. The reason that segment only holds water during flooding of the Skunk River is because Mr. Conrad cut off all flow from Middle Creek into that part of the old channel by filling in the channel on his land. (That part of the original channel is in the flood plain of both Middle Creek and the North Skunk River.) (Department Exhibits 4a, 5, 21, 22, 30; Conrad Exhibits 6, 18, 22, 25, 29; testimony of Mr. Simmons, Mr. Dale Van Veldhuisen, Mr. Gale Conrad; Mahaska County District Court Orders).

15. On September 25, 1985, the Army Corps sent Mr. Conrad a letter which stated, "Between 1979 and 1983, the original channel

43. Mr. Bruce inspected the new Middle Creek channel on August 7, 1984, on October 23, 1985, and on October 31, 1985. (Department Exhibit 28).

44. On October 31, 1985 Mr. Bruce attempted to collect a fish sample by seining. He had difficulty collecting a good sample because of high water and the difficulty of pulling a seine through the rapid flow of water in the new Middle Creek channel. (Testimony of Mr. Bruce).

45. A thorough fish evaluation of a portion of Middle Creek two miles upstream from Mr Conrad's property was conducted in 1985 by a research biologist for the Department of Natural Resources. There was no evidence to show whether the channel of the portion of Middle Creek which was studied was similar to the old and new channels of Middle Creek on Mr. Conrad's property. (Testimony of Mr. Bruce; Department Exhibit 28).

46. This study showed the following fish to be present: carp, 145 lbs./acre; channel catfish, 109 lbs./acre; white sucker, 18 lbs./acre; green sunfish, 10 lbs./acre; and several other types of fish present in smaller amounts. It would be expected that there would not be a great deal of difference in the fish population between the part of Middle Creek sampled in the study and the old Middle Creek channel on Mr. Conrad's property. (Testimony of Mr. Bruce; Department Exhibit 13, 28).

47. Because it has been straightened, and the meanders removed, the new Middle Creek channel is shorter than the old Middle Creek channel. The result is less volume of water and less habitat available for fish. (Testimony of Mr. Bruce).

48. Straightening any stream channel reduces the fish producing potential of the stream. All diversity is removed. Places for fish to gather are removed. There are no holes on the stream bottom. Three-fourths of the bottom of the new Middle Creek channel is hardpan clay, which is devoid of food production. For food for fish, a stream needs to have some quiet areas for insects to gather. In the new Middle Creek channel there are no such quiet areas because all diversity has been removed with the stream straightening. There has been a significant adverse impact on fish habitat due to the channel change. (Testimony of Mr. Bruce)

49. There are approximately 16 "pools" per mile in a typical Iowa stream. (Testimony of Mr. Bruce; Department Exhibit 28).

50. Although there was much conflicting evidence, the most accurate evidence showed the total reduction in channel length caused by the Middle Creek channel change was 1300 feet. This includes a reduction of 800 feet on Mr. Conrad's property and a reduction of 500 feet on the Van Veldhuisen property. There was a 130 reduction in length of the channel through Mr. Conrad's property. (Testimony of Mr. Simmons, Department Exhibit 22).

Re: SEA No. 870011  
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Dated this 18<sup>th</sup> day of June, 1987.

  
Amy Christensen Couch  
Administrative Hearing Officer

ACC/jmm

cc: Michael W. Broerman  
Randall L. Clark

13. The best estimate of the cost to make the required repairs is \$17,000.00. (Lakewood Exhibit 1).
14. The District has been negotiating with the City of Norwalk to provide a certified operator for the District. Negotiations were not complete as of the date of the hearing. (testimony of Matthew Coenen; Tom Hildebrand; Lakewood Exhibit 2).
15. The Department had not issued a new NPDES permit to the District as of the date of the hearing, and any such new permit (or possible conditions attached to it) was not the subject of this appeal. This appeal involved the NPDES permit issued September 27, 1982, and the Administrative Order issued February 13, 1987. (official file).
16. Effluent quality cannot be determined without the monthly monitoring reports which were required to be submitted by NPDES permit no. 91-00-8-02. There is no way to tell whether the District has been in compliance with the permit because it has not taken the samples as required nor submitted the reports as required. (testimony of Mr. Schuelsky). There is no way to determine whether there has ever been a threat to public health for the same reason. (testimony of Mr. Schuelsky).
17. To hire a certified operator by affidavit from the City of Norwalk would cost the District approximately \$300 per month. (testimony of Mr. Coenen).
18. The District has saved far more than the \$1000 statutory maximum by its noncompliance with the requirements of hiring a certified operator, conducting the monthly testing and submitting the required reports, and not conducting necessary repair and maintenance. (testimony of Mr. Schuelsky; Mr. Coenen; Mr. Hildebrand; Lakewood Exhibit 1; Department Exhibit A).

#### **CONCLUSIONS OF LAW**

The Department has the authority to assess civil penalties of "not more than one thousand dollars for minor violations" of chapter 455B or the rules thereunder. Iowa Code §455B.109; §67 Iowa Administrative Code Ch. 10. In assessing the penalties, the department is to consider several factors. These include, among others, (a) the costs saved by noncompliance, (b) the gravity of the violation, (c) culpability of the violator, (d) whether assessment of the penalty appears to be the only or most appropriate way to deter future violations and (e) other relevant factors. Factors to be used when assessing (b), the gravity, include: (1) actual or threatened harm to the environment or public health, (2) degree to which standards are exceeded, (3) federal program priorities, (4) whether the violation is repeated and whether it violates an administrative or court order, and (5)

- D: letter to Robert Palla, P.E. from William McAllister and attached Storm Lake data dated 1-6-86.
- C: NPDES draft permit with cover letter dated 4-24-86.
- D: letter to William McAllister from Allan E. Stokes dated 10-7-86.
- E: letter from Joseph E. Obr to William C. McAllister dated 12-1-86.
- F: letter to Richard Nelson, U.S. Department of Interior from Robert Palla dated 7-3-86.
- G: letter to Robert Palla from Richard Nelson dated 9-30-86.
- H: Rough estimate prepared by the Department for costs of permanent outfall to the Cedar River.
- I: Design schedules required to be filed for construction of the wastewater treatment plant at Columbus Junction.
- J: letter to Robert Palla from William McAllister dated 9-9-86.
- K: letter to William McAllister from Robert Palla dated 12-24-85.
- L: Construction Permit for IBP facility at Columbus Junction 4-14-86.

**Petitioners Exhibit**

- 1 NPDES Permit Application and cover letter dated 11-18-85.
- 2 letter to William McAllister from Robert Palla dated 12-13-85.
- 3 letter to Palla from McAllister dated 1-6-86 (same as Petitioner's B)
- 4 letter to McAllister from Palla dated 2-7-86.
- 5 telephone memo dated 3-11-86 summarizing McAllister's conversation with Stephen Ballou.
- 6 letter to Palla from McAllister dated 4-14-86.
- 7 NPDES draft permit with cover letter dated 4-24-86. (Same as Petitioner's C)
- 8 letter to Palla from McAllister dated 5-19-86 (reply to draft permit)
- 9 IBP's NPDES Permit for the Columbus Junction facility.
- 10 letter to McAllister from LaVay Haseg dated 7-2-86.

based on seven day ten year low flow conditions. Under normal stream flow in the Iowa River, the expected ammonia nitrogen discharge from the plant would be below the allocation required to actually violate state water quality standards. Statistically, the seven day, ten year low condition has a ten percent (10%) chance of occurring at any given time in a given year, and it actually can occur more frequently or less frequently than once every ten years. The Department anticipates low flows to become more frequent and of longer duration as sedimentation continues to decrease the storage capacity of the Coralville Reservoir. (Testimony of William McAllister, Robert Palla, Paul Sharp, Petitioner's Exhibit 11)

15. IBP proposes to monitor the stream flow in the Iowa River on a daily basis from the gauging station at Lone Tree, Iowa, upstream of IBP's discharge. If stream flow dropped to close to the limiting stream flow, (205 c.f.s.), where water quality standards would be violated, then IBP would start to assemble the irrigation pipe and construct the temporary outfall to the Cedar River. Stream flow data for the years 1972 to 1985 submitted as Petitioner's Exhibit 12 shows that stream flow was at or below 205 c.f.s. on 127 days. However, IBP, Inc. suggested that they would use 300 c.f.s. as the trigger for assembling their temporary outfall pipe. Petitioner's Exhibit 12 shows that stream flow was at or below 300 c.f.s. more than 127 days in the 13 year period. According to the stream flow data, there should be at least eight days warning from the time stream flow hit 300 c.f.s. until it dropped to 205 c.f.s. (Testimony of William McAllister, Paul Sharp, Petitioner's Exhibit 12).
16. In eighteen years with the Department and its predecessor agencies, Robert Palla, Environmental Engineer III, had never before reviewed a request for a temporary outfall. He recommended that use of a temporary outfall not be approved because he felt it would not be as reliable as a permanent outfall. Palla was concerned that the pipe, which might not be used for a period of years, would not be kept in good repair or would not actually be assembled and used when needed. This decision was also influenced by the Department's past experience with IBP, Inc. at its Storm Lake facility. Specifically, IBP had PH excursions from the lagoon systems at Storm Lake, and acid had to be added in order to alleviate the problem. In addition, a lift station at the Storm Lake facility was bypassing and needed standby power installed, but it took a couple of years before standby power was installed. (Testimony of Robert Palla, LeVey Naage, Allen Stokes)
17. Allen Stokes, the Administrator for the Environmental Protection Division testified that after a staff briefing on the pros and cons of the temporary outfall, he decided



IBP, Inc.'s, request for approval of a temporary outfall.  
(Petitioner's Exhibits B, 11)

Iowa Code §455B. 174 states that an "applicant may appeal to the commission...from any condition in any permit if the applicant files notice of appeal with the Executive Director within thirty days of the .....issuance of the permit." The parties clearly discussed the temporary outfall in connection with the NPDES permit, and during these discussions the Department did not assert the waiver issue. Given the broad language of Iowa Code §455B.174, I cannot conclude that this issue was waived because the construction permit "implied" a permanent outfall.

2. Substantial evidence established that the Department's decision to require IBP, Inc. to construct a permanent outfall to the Cedar River for its Columbus Junction facility was not an abuse of discretion nor does it place an undue hardship on IBP, Inc.  
(Findings of Fact 3,4,5,6,7,9,10-18)
3. Substantial evidence established that the Department's refusal to allow variable ammonia limits for IBP, Inc.'s Columbus Junction facility was not an abuse of discretion nor does it impose an undue hardship on IBP, Inc.  
(Findings of Fact 3,6,7,9,19,20)
4. Substantial evidence established that the imposition of flow and concentration limits on discharges of wastewater from IBP, Inc.'s Columbus Junction slaughterhouse was not contrary to Iowa and Federal Law nor does it exceed the Department's regulatory authority.  
(Findings of Fact 31,32,33,34,35)

40 C.F.R. 122.45 (b)(2)(i) provides that calculation of any permit limitations, standards, or prohibitions which are based on production shall be based upon reasonable measure of actual production of the facility. For new sources or new dischargers, actual production shall be estimated using projected production.

40 C.F.R. 122.45(f)(1) provides in relevant part that all pollutants limited in permits shall have limitations, standards, or prohibitions expressed in terms of mass.

40 C.F.R. 122.45(f)(2) provides that pollutants limited in terms of mass additionally may be limited in terms of other units of measurement, and the permit shall require the permittee to comply with both limitations.

§67 Iowa Administrative Code 64.6(3) provides in part:

"In the application of effluent standards, and limitations, water quality standards, and other legally applicable